

City of Graham City Council
Regular Meeting Agenda
November 8, 2022
6:00 p.m.



CALL TO ORDER: Mayor Jennifer Talley

INVOCATION & PLEDGE OF ALLEGIANCE

REPORT: Alamance Area Chamber of Commerce

CONSENT AGENDA:

- a. To approve the October 11, 2022, City Council meeting minutes.
- b. To approve an amendment to the 2022-23 Fee Schedule to include a Fire Flow Test fee of \$1,200.00, and a Hydrant Meter Deposit of \$2,000.
- c. To approve an amendment to the 2022-2023, Pay Plan adding Police Lieutenant classification at a Pay Grade 24 and to approve the hiring of two lieutenants.
- d. To approve a budget amendment transferring Federal Drug Forfeiture funds in the amount of \$45,100.00, to the Federal Drug Fund account balance for law enforcement use.
- e. To approve the revised Project Budget and Resolution of Acceptance of funds in the amount of \$82,989,500, for the Waste Water Treatment Plant upgrades and expansion project.
- f. To approve the Graham Area Business Association's 61st Annual Christmas Parade on December 3, 2022, and to approve the following parade route street closures: beginning at Parker Street from Sideview to Elm Street, preceding down North Main Street to South Main Street, and ending on McAden Street at Graham Middle School's parking lot. The requested closure of these streets would be from 8:00 a.m. to 1:00 p.m. pending approval by NCDOT for State roads.
- g. To approve an engineering contract in the amount of \$1,257,925, with Alley, Williams, Carmen & King, for the 10-inch waterline replacement project and to authorize the City Manager and City Attorney to effectuate the contract.

NEW BUSINESS:

1. LOCAL HISTORIC LANDMARK DESIGNATION – NICK'S BUILDING:

City Council will consider designating Nick's building located at 102 South Main Street as a local historic landmark.

2. PANHANDLING ORDINANCE – REPEAL CHAPTER 12, ARTICLE 1, SEC. 12-3 AND ADD SEC. 12-20 TO 12-25 – PUBLIC PANHANDLING, BEGGING, CHARITABLE AND POLITICAL SOLICITATION:

City Council will consider an amendment to the Code of Ordinances, repealing Chapter 12, Article 1, Section 12-3 and adding Section 12-20 to 12-25, Public Panhandling, Begging, Charitable and Political Solicitation.

PUBLIC COMMENT PERIOD

CITY STAFF COMMENTS

CITY COUNCIL COMMENTS

ADJOURN

City of Graham

City Council Meeting Minutes

October 11, 2022



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on October 11, 2022, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

Council Members Present:

Mayor Jennifer Talley
Mayor Pro Tem Ricky Hall
Council Member Bobby Chin
Council Member Joey Parsons
Council Member Bonnie Whitaker

Staff Present:

Megan Garner, City Manager
Aaron Holland, Assistant City Manager
Bryan Coleman, City Attorney
Bob Ward, City Attorney
Renee Ward, City Clerk
Josh Johnson, City Engineer

CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:00 p.m. and presided.

INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Parsons gave the invocation and all stood for the Pledge of Allegiance.

STAFF REPORT: Historic Resources Commission (HRC) Façade Projects Update

City Manager Garner stated at the September meeting Council discussed carrying forward HRC façade grants that were awarded last fiscal year and had carried forward to this fiscal year. There were two recipients, Green & McClure and Maricle Metals, who were each awarded \$5,000 in the prior fiscal year that rolled over into this fiscal year. She stated that staff had contacted both businesses and they each intend to move forward with their projects.

Council Member Parsons asked if a timeline could be placed on those receiving grants and if Council needed to set that timeline or if would that fall under HRC.

City Manager Garner stated that Council could address the timeline. She stated that during budget talks, Council discussed the two outstanding projects, and if Council elected to carry any projects forward in the future, that would be the appropriate time to discuss restrictions.

ANNOUNCEMENT:

Ms. Heidi Norwick, President, United Way of Alamance County, invited Council to attend the Housing Alamance event on Wednesday, October 19, 2022, from 8:30 am – 2:30 pm at Ebenezer United Church of Christ, 734 Apple Street, Burlington. The purpose of the event is to engage the community in an open dialogue regarding housing in Alamance County.

CONSENT AGENDA:

- a. To approve September 13, 2022, City Council meeting minutes and the September 27, 2022, special meeting minutes.
- b. To authorize the City Manager and City Attorney to execute the scope of services with Piedmont Triad Regional Council to update the 2035 Comprehensive Plan in the amount of \$40,000, and to approve the associated budget amendment.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2022-2023					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
Section 1.					
GENERAL FUND					
DEPARTMENT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Admin	653,900.00	693,900.00	40,000.00		
	<u>653,900.00</u>	<u>693,900.00</u>	<u>40,000.00</u>	<u>-</u>	<u>40,000.00</u>
Section 2.					
GENERAL FUND					
REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Fund Balance	1,209,983.00	1,249,983.00	40,000.00		
	<u>1,209,983.00</u>	<u>1,249,983.00</u>	<u>40,000.00</u>	<u>-</u>	<u>40,000.00</u>
Adopted this 11th day of October 2022.					

- c. To approve a contract amendment with Alley, Williams, Carmen & King to provide dedicated office hours for City-related engineering services.
- d. To approve closing streets for Graham High School's Homecoming Parade on October 21, 2022, from 4:45 pm to 5:30 pm. The procession will begin at Albright Avenue, down Main Street, around Court Square, down Pine Street, and ending at Graham Middle School.
- e. To approve a request from Alamance County Veterans Organization for the City of Graham to provide public safety during the Veterans Day Festival/Parade on November 12, 2022, from 9:00 am to 11:30 am.
- f. To approve a request by ALCOVETS to close East Elm Street on November 12, 2022, from 10:00 am to 7:00 pm to honor veterans.
- g. To approve the following tax releases in the amount of \$2,086.59.

CITY OF GRAHAM				
RELEASE ACCOUNTS				
SEPTEMBER RELEASES				
ACCT #	YEAR	NAME	REASON FOR RELEASE	AMOUNT RELEASED
714105	2022	MICHAEL V SPENCE HEIRS	PROPERTY BILLED TO THIS ACCT IN ERROR AFTERLIST DISCOVERY TO CORRECT ACCOUNT	\$6,490.52
137281	2022	WILKERSON, WILLIE M JR	VEHICLE TAGGED, NOT PERSONAL PROPERTY	\$6.01
169032	2022	BAKER, RAYMOND WILSON	SOLD 2021	\$3.87
180763	2022	PUTNAM, RICKY LEE	DID NOT OWN JAN 2021	\$6.93
491475	2022	FOOD LION LLC 591	WRONG SCHEDULE USED IN ASSESSING	\$140.34
502660	2022	OSBORN, ROBERTA CHRISTINE	BOAT NOT IN CITY OF GRAHAM SINCE 2020	\$93.87
597522	2022	KELLY, JOSHUA ALLEN	SOLD BOAT NOV 2021	\$27.75
706551	2022	GIVENS, ROSE M	QUALIFIED FOR DISABLED VETERANS EXCLUSION	\$204.75
623976	2022	B & B LOGISTICS LLC	42 BUSINESS PERSONAL PROPERTY ACCTS NOW LOCATED IN BURLINGTON (LEASED FREIGHT VEHICLE)	\$9,199.85
541812	2022	B & B LOGISTICS LLC	53 BUSINESS PERSONAL PROPERTY ACCTS NOW LOCATED IN BURLINGTON (LEASED TRAILERS)	\$2,086.59

Mayor Talley stated for full disclosure, her husband currently serves as Chairman of ALCOVETS, and Council Member Chin and Council Member Parsons were members as well. She stated no board member receives any financial compensation and the organization has a 501(c)(3) status. She asked if the remaining Council Members had any problems with those members voting. Council Member Whitaker and Mayor Pro Tem Hall stated they had no problem.

Mayor Talley asked that City Engineer, Josh Johnson, Alley Williams Carmen, and King, set office hours and post them on the City's website. City Engineer Johnson stated his work hours were planned for Mondays and Tuesdays 1:00 pm –5:00 pm and four additional hours spread throughout the remainder of the week. He suggested people email or call ahead to make sure he was in the office and not out in the field.

Motion by Mayor Pro Tem Hall to approve the Consent Agenda, seconded by Council Member Chin. The motion passed unanimously.

PUBLIC HEARINGS:

ITEM 1: REZONING: 0.25 ACRES - 300 E ELM STREET

A public hearing had been scheduled to consider rezoning 0.25 acres of property from R-7, High-Density Residential, to C-B, Conditional Business to utilize the existing home structure as a hair salon.

(Planning Board recommended approval)

Mayor Talley asked to be recused due to owning property at 306 Elm Street, which is located beside the proposed rezoning property.

Mayor Pro Tem Hall motioned to allow Mayor Talley to be recused due to owning property beside the proposed rezoning, seconded by Council Member Whitaker. The motion passed unanimously.

Assistant City Manager Aaron Holland stated this was a request to rezone 0.25 acres of property from R-7 (High-Density Residential) to C-B (Conditional Business) to utilize the existing home structure as a hair salon. He stated the entirety of this block was zoned R-7, and this request would allow for all B-3 permitted uses to utilize this property minus the ones omitted in the proposed conditions on the lot. The future land use plan notes that supporting uses in the Downtown Residential zone supports the uses of neighborhood-oriented commercial facilities. The presented request coincides with the Future Land Use (FLU) plan and the City's Development Ordinance.

The public hearing was opened and the following person spoke:

Mr. Chad Huffine, Civil Engineer, 505 E. Davis Street, Burlington, NC, stated there were 24 notes at the end of the table of permitted uses, and note 25 pertained to a text amendment for Maricle Metals allowing for an arts and crafts studio. Due to the timing, this note had not been codified into the Unified Development Ordinance, but it referred to the availability of that use and zoning for creating crafts from metal or stone to create earrings, rings, etc. He stated it was discussed at length during the Planning Board meeting. He stated the following permitted uses were items they would like to see possibly used in this area.

<u>Table of Desired Permitted Uses</u>
Office Space < 5 Employees
Arts and Crafts Studio (see note 25)
Boutique Shops, No Outdoor Storage
Barber Shop, Beauty Shop, Nail Salon
Contractors office - no outdoor storage
Dwelling - Single Family Detached
Home occupation
Medical Dental or Related Office
Parking lots or access driveways serving uses not permitted in district where lot is located
Photography Studio
Retail Sales no outside storage or sales - permitted by right
School, music, art, martial arts, dancing
City of Graham Reference Note 25: Note not expressed

Council Member Parsons asked about the parking lot providing ample parking.

Mr. Huffine stated to accommodate off-street parking, they proposed parking to the east with an accessible parking space to the north. Parking spaces would match the number of seats if there were three stylists at any one time. He stated at a rate of one space per 200 square feet, the floor area would be 1,400 square feet and the size of the structure was less than that. According to the off-street parking requirements, the proposal would meet that condition.

Public Hearing Closed:

Motion by Council Whitaker to close the public hearing, seconded by Council Member Chin. The motion passed unanimously.

Council Member Whitaker asked if the property did not evolve into a business, would the owner have to come back to the Council to revert the property to a home?

Assistant City Manager Holland stated it was a use-by-right for any single-family dwelling so if it is used as a house, you by right have the ability to have a home occupation as long as you meet all the associated criteria.

Mayor Pro Tem Hall asked if this would create excess traffic in a residential area.

Assistant City Manager Holland stated he was not sure it would due to the size of the property, and with the building being only 1,400 square feet, it was limited in its impact regarding traffic or parking.

Council Member Parsons asked what the building could be rebuilt as if it were to be destroyed.

Assistant City Manager Holland stated that since it was site-specific, it would be limited to the size that is currently there.

Council Member Parsons stated he would like for the structure to stay as residential since it was located in a residential area.

Assistant City Manager Holland stated that could be made part of the condition when voting.

Mr. Huffine stated for clarity, if there were an accident and the property needed a complete redo, it would occupy the same shape and foundation elements without another vote required by Council. He stated if the building had to change in any configuration substantially different from what is depicted in the Conditional Zoning plan, it would require Council approval.

Motion:

Motion by Council Member Whitaker to approve the rezoning of 0.25 acres at 300 East Elm Street stating that it was consistent with the 2035 Comprehensive Plan, Sections 2.2.1., 2.3.2 including the condition that if something happened to the property, it be rebuilt structurally the same as it is now. There was no second.

Mayor Pro Tem Hall asked that Council Member Whitaker amend her motion to be approved as office use, a hair salon, or a house due to a parking issue stating this would be consistent with the Comprehensive Plan Sections 2.2.1 and 2.3.2.

Council Member Chin stated he was okay with the motion but was at a loss with the issue of parking.

Mayor Pro Tem Hall stated if it was to become a martial arts or dance studio, six or seven parking spaces would not be enough. He stated that the area of East Elm Street it was already narrow and logging trucks coming through there needed to be considered.

Council Member Whitaker asked if he would have an issue with medical or dental.

Mayor Pro Tem Hall stated no.

Council Member Whitaker reiterated his objections to retail sales, schools, music, martial arts, or dance before making another motion.

Council Member Whitaker motioned to approve the rezoning of 0.25 acres located at 300 East Elm Street to Conditional Business with the following conditions:

- Office space, arts and craft studio, boutique shops, no outdoor storage, barber shop, beauty shop, nail salon, contractor office, single-family detached dwelling, home occupation, medical or dental related offices, photography studio, but not retail sales, school, music, art, martial arts, dancing due to issues with parking. There was no second.

Mr. Huffine asked the sales of hair care products not be removed from the list and that this would be strictly for a retail store associated with hair salons. He also asked for a point of clarity that if one space for every 200 square feet, which was the most intense parking rate in the City's current ordinance, is not suitable for retail sale in a typical general business, then what was the rate of parking that had changed that he was not aware of. He stated that the parking was adequate according to the development ordinance and it met and exceeded the requirement.

Mayor Pro Tem Hall stated his concern was limiting the impact of additional cars entering or being in a residential area. He also stated that if the building was to burn down or get torn down, he would like to see it rebuilt as residential.

Mr. Huffine stated this plan was thoughtfully designed and proposed to Council through Planning and staff review at the prescribed rates by the City ordinance and wanted to make sure he was not missing something.

Council Member Whitaker stated that she did not have any issues with the proposed conditions so she would go back to her original motion to approve the rezoning.

Motion by Council Member Whitaker to approve the rezoning of 0.25 acres at 300 East Elm Street given that it was consistent with the 2035 Comprehensive Plan, Sections 2.2.1., 2.3.2 along with the proposed conditions. There was no second.

Mr. Chuck Talley entered the Council Chamber and asked to speak.

Council reopened the public hearing.

Council Member Chin motioned to reopen the public hearing, seconded by Council Member Parsons. The motion passed unanimously.

Mr. Chuck Talley, 808 Sideview Street, Graham, asked if the building burned down would it be built back the way it was? He stated he did not have a problem with the rezoning.

Council Member Parsons stated that had been addressed with the petitioner, Mr. Huffine.

Closed the Public Hearing.

Mayor Pro Tem Hall motioned to close the public hearing, seconded by Council Member Parsons. The motion passed unanimously.

Final Amended Motion:

Council Member Whitaker motioned to approve the rezoning of 0.25 acres located at 300 East Elm Street, to Conditional Business given it is consistent with the 2035 Comprehensive Plan, Sections 2.2.1., 2.3.2 and if the building were to be damaged or burned down, it would be built back the same as it is now, seconded by Mayor Pro Tem hall. The motion passed unanimously. Mayor Talley did not vote.

Motion by Mayor Pro Tem Hall to allow Mayor Talley to return to open session, seconded by Council Member Whitaker. The motion passed unanimously.

ITEM 2: RECLASSIFICATION: 0 EAST HARDEN STREET

A public hearing was scheduled to consider reclassifying a portion of property located at 0 East Harden Street from CB, Conditional Business, to R-7, High-Density Residential, to allow the property owner to utilize the full extent of the lot. (*Planning Board recommended approval*)

Assistant City Manager Holland stated this request was to reclassify portions of parcel numbers 146819 and 146790 to an applicable zoning classification. He stated the current landowner was seeking to build homes on the back portion of the lots. He shared that with the Conditional Business zoning classification on the

front of the lot, the owner was unable to run a driveway into the proposed housing development due to the site-specific plan that runs with the land. The original purpose was to build a center for Mt. Zion Church (the previous owners), but after its approval in 2012, nothing came to fruition. He stated according to Section 10.45(f) of the zoning ordinance, no sooner than three years after the date of approval of the petition, the Planning board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. He stated if the Planning Board determined that progress had not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the City Council a report, which may recommend that the property be classified to another district. With no development occurring in this time frame, Planning Board asked that City Council reclassify the property to R-7 or another district to allow the owner to utilize the full extent of the lots.

Mayor Pro Tem Hall asked how many homes were intended to be built.

Assistant City Manager Holland stated there were three lots and the property owner was looking to build a house for himself and one of his children.

Mayor Talley asked if the NC Department of Transportation was okay with the placement of a driveway.

Assistant City Manager Holland stated he had not had a conversation with NCDOT, but they would have to approve it before the owners moved forward with a driveway.

The public hearing was opened and there were no comments.

Public Hearing Closed:

Motion by Mayor Pro Tem Hall to close the public hearing, seconded by Council Member Whitaker. The motion passed unanimously.

Motion:

Motion by Mayor Pro Tem Hall to approve the reclassification and revert back to R-7 zoning, seconded by Council Member Chin. The motion passed unanimously.

OLD BUSINESS:

ITEM 3: HISTORIC RESOURCES COMMISSION – FAÇADE GRANT PROGRAM

City Council will consider approving a budget amendment in the amount of \$10,583.00 for the Historic Resources Commission façade grant program.

Mayor Talley asked to be recused from considering this item due to having a façade grant application that was being considered by the HRC.

Motion by Council Member Whitaker to allow Mayor Talley to be recused from this item, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

Motion:

Motion by Mayor Pro Tem Hall to approve the budget amendment in the amount of \$10,583.00 for the Historic Resources Commission façade grant program, seconded by Council Member Whitaker. The motion passed unanimously. Mayor Talley did not vote.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2022-2023					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
Section 1.					
GENERAL FUND					INCREASE
DEPARTMENT	APPROVED	AMENDED	INCREASE	(DECREASE)	(DECREASE)
Non-Departmental	1,123,100.00	1,133,683.00	10,583.00		
	<u>1,123,100.00</u>	<u>1,133,683.00</u>	<u>10,583.00</u>	-	<u>10,583.00</u>
Section 2.					
GENERAL FUND					INCREASE
REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	(DECREASE)
Fund Balance	1,199,400.00	1,209,983.00	10,583.00		
	<u>1,199,400.00</u>	<u>1,209,983.00</u>	<u>10,583.00</u>	-	<u>10,583.00</u>
Adopted this 11th day of October 2022.					

Motion by Mayor Pro Tem Hall to bring Mayor Talley back into open session, seconded by Council Member Whitaker. The motion passed unanimously.

NEW BUSINESS:**ITEM 4: ORDINANCE AMENDMENT – CHAPTER 12, ARTICLE 3 – HEIGHT OF GRASS:**

City Council will consider an amendment to Chapter 12, Article 3, to reduce the allowable height of grass, weeds, and noxious vegetation from 18 inches to 12 inches.

Assistant City Manager Holland stated the City of Graham received an application from Mayor Pro Tem Ricky Hall requesting to amend the Code of Ordinances that establishes the threshold of enforcement for dense growth of grass, weeds, or other noxious vegetation. Mr. Holland stated City Council discussed this item at its meeting on September 13, 2022, and directed staff to provide amended language for the October 11, 2022, City Council meeting. He stated the current threshold was 18 inches and Mayor Pro Tem Hall is requesting that the height be reduced to 12 inches.

Mayor Talley stated that by the time a high grass notice goes out, the grass was continuing to grow and the amendment was needed.

Motion:

Motion by Council Member Whitaker to approve an amendment to the Code of Ordinances, Chapter 12, Article 3, to reduce the allowable height of grass, weeds, and noxious vegetation from 18 inches to 12 inches, seconded by Council Member Parsons. The motion passed unanimously.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAHAM, AMENDING CHAPTER 12, ARTICLE III, SEC. 12-70 TO THE CODE OF ORDINANCES OF THE CITY OF GRAHAM, NORTH CAROLINA

The City Council of the City of Graham, North Carolina, does ORDAIN:

Sec. 1. That the Code of Ordinances, City of Graham, North Carolina, is hereby amended by amending section(s) 12-70, which said sections read as follows:

Chapter 12 – OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE III. – NUISANCES

Sec. 12-70. - Conditions declared a nuisance.

The following enumerated and described conditions are deemed and declared to constitute a detriment, damage, and hazard to the health, safety, and general welfare of the inhabitants within the city and are found, deemed, and declared to be public nuisances wherever the same may exist, and the creation, maintenance or failure to abate any such nuisance is hereby declared to be unlawful. For purposes of this article, the term "open spaces" shall be defined as areas of properties or portions thereof that are open to the exterior, including building openings of residential dwelling units such as carports or porches and any other exterior portions of properties ordinarily exposed to the outside and/or public including front, side and rear yards. Said conditions are as follows:

- (1) Any condition which constitutes a breeding ground or harbor for rats, snakes, mosquitoes, harmful insects, or other pests.
 - (2) Bones, fertilizers, rags, hides, dried or green, or any other material offensive in odor or prejudicial to health, which is within 100 feet of any dwelling or business location.
 - (3) Stagnant water located in any open spaces, including, but not limited to, a pool, pond, sink, boat, cellar, basement, or open container.
 - (4) Machinery, equipment, or business operations that emit excessive smoke, dust, debris, Noise, or odors so as to adversely affect the health of any citizens and the general welfare of the community.
 - (5) Any open space for the collection of garbage, animal waste, or any rotten or putrescible matter of any kind.
 - (6) A place of dense growth of grass, weeds, or other noxious vegetation in excess of ~~18 inches~~ **12 inches** high which threatens to cause a breeding ground for mice, snakes, rats, or vermin of any kind or which is detrimental to the public health, except this shall not apply to planted or cultivated flowers, shrubbery, vegetables or crops.
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Sec. 2. That this Ordinance shall be in full force and effect from and after its passage, approval, and publication, as provided by law and all ordinances in conflict herewith are hereby repealed.

ITEM 5: ARPA FUND REQUEST – RECREATION – BOAT RAMP RENOVATIONS:

City Council considered ARPA funds in the amount of \$195,000.00, for the Graham-Mebane Lake boat ramps renovation project.

City Manager Garner stated that this was one of the items the Council discussed during the preliminary ARPA discussions to renovate the Graham-Mebane Lake boat ramps. She stated Recreation and Lake Staff worked with NC Wildlife Commission on securing estimates to make repairs. She stated if approved, the lake would be closed in late 2023 into early 2024, for renovations and it could take three to four months to complete.

Council Member Parsons asked if the City of Mebane would be sharing any of the cost.

City Manager Garner stated that this was budgeted for Graham's part and she was not sure about any discussions Recreation has had with Mebane regarding their portion of the improvements. She stated if the Graham amount was less, we would not spend the full amount and go back to Council to unencumber that portion that Mebane contributed.

Mayor Talley asked Staff to report back if Mebane would be sharing any of the cost.

Motion:

Motion by Mayor Talley to approve ARPA funds in the amount of \$195,000, to be used for the Graham-Mebane boat ramps renovation project, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

**RESOLUTION ESTABLISHING THE BUDGET FOR
ARPA FUNDS GRANT ORDINANCE**

WHEREAS, On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President;

WHEREAS, Section 9901 of ARPA amended Title VI of the Social Security Act (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which established the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds);

WHEREAS, On June 8, 2021, the City Council of the City of Graham hereby created an American Rescue Plan Act (ARPA) Local Fiscal Recovery Fund.

WHEREAS, On August 9, 2022, the City Council of the City of Graham approved \$3,784,134 in projects for the ARPA Local Fiscal Recovery Fund leaving an unencumbered balance of \$1,202,206.

WHEREAS, On September 13, 2022, the City Council of the City of Graham approved additional projects amounting to \$69,916 for the ARPA Local Fiscal Recovery Fund leaving an unencumbered balance of \$1,132,290.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM, NORTH CAROLINA, that pursuant to Section 13.2, Chapter 159 of the General Statutes of North Carolina, the following Project Ordinance is hereby revised to include additional projects:

Section 1. The Project authorizes the use of ARPA Funds.

Section 2. The officials of the City of Graham are hereby directed to proceed with this project within the terms of the project. Staff is authorized to execute change orders within the budget ordinance.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

ARPA Revenue	\$4,049,050
TOTAL	\$4,049,050

Section 4. The following amounts are appropriated for this project at this time:

10" Water Line Replacement	\$3,500,000
GPD Positions Equipment	\$62,101
Vehicles	\$204,033
Fuel Master System Upgrade	\$18,000
Civic Center Repairs – Roof & Floor	\$58,788
Camera at Parks - Entrances	\$11,128
GM Lake – Ramp Renovation	\$195,000
TOTAL	\$4,049,050

Section 5. The Finance Director shall report on the financial status of this project as directed by the City Council and will inform the Council of any unusual occurrences.

Section 6. Copies of this project ordinance shall be made available to the City Manager and the Finance Director for direction in carrying out this project.

Section 7. This ordinance shall take effect upon passage.

Adopted this the 11th day of October 2022.

PUBLIC COMMENT PERIOD:

Mr. Bill Aydt, 132 Windsor Drive, Graham, spoke about the Graham-Mebane Lake's boat ramps. He stated the ramps were not safe especially when the lake levels are low. He also spoke about not having enough boat ramps when a storm comes up and you cannot get out promptly. He shared that boat cushions were needed to protect your boat from the docks.

Mr. Keith Westbrooks, 604 Trockwater Court, expressed concern about the Graham Recreation facility on Maple Street needing repairs to the floors.

CITY STAFF COMMENTS

There were no staff comments.

CITY COUNCIL COMMENTS

- Council Member Chin shared that on October 17, 2022, the Alamance County Commissioners would be presenting a proclamation to ALCOVETS proclaiming the second week in September to become the annual Balloon Festival in Alamance County.

Mayor Talley shared the following upcoming events:

- Jeepers-Creepers – Grahamtoberfest – Pumpkin Bash – October 28
- Veterans Day Event – November 12 followed by a Veteran’s festival
- Mayor Talley shared this Board was 150% in support of Veterans and its parade and asked law enforcement to help in making the event safe. This year and each year going forward, they want the City to be a part of the event and help in any way. She asked if Council’s consensus was in support of Veterans and all stated yes.
- Parking Enforcement Vacant Position - asked about the progress of getting someone hired to enforce downtown parking. Mayor Talley asked to share the vacancy on social media and make sure it is on the website.
- She asked for Council’s support in directing staff to review the City’s outdated sign ordinance. The council consensus was to direct staff to begin reviewing the sign ordinance.
- Mayor Talley asked staff to simplify the application process for applying for façade grants.
- Mayor Talley spoke about aggressive panhandling going on downtown and efforts to deter it. She asked Staff to review the current ordinance and report back at the next Council meeting.

Mayor Pro Tem Hall thanked the Appearance Committee for decorating the downtown area and reminded Council of the upcoming City-County Association dinner meeting on October 20, 2022, at 6:00 pm at 104 Cone Drive, Haw River.

ADJOURN

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. (7:37 pm)

Renee M. Ward. CMC
City Clerk



STAFF REPORT

SUBJECT:	AMEND 2022-23 FEE SCHEDULE FOR FIRE FLOW TESTING FEE AND HYDRANT METER DEPOSIT
PREPARED BY:	AARON HOLLAND, ASSISTANT CITY MANAGER

REQUESTED ACTION:

Amend the 2022-23 Fee Schedule to add a fee of \$1,200 for Fire Flow Testing and a refundable Hydrant Meter Deposit of \$2,000.

BACKGROUND/SUMMARY:

Fire flow tests are conducted to measure real-world pressure and flow in the water system. Hydrant flow tests are required for fire sprinkler design and for water modeling purposes. These tests measure the static and residual pressure as well as the rate of discharge.

The City of Graham has been performing these tests in-house which has proven to be challenging with adequate staffing availability and potential liability. In an effort to meet expectations and provide this service, staff is proposing to contract this service at a fee paid by the developer.

Additionally, the City of Graham is regularly asked to provide water to construction projects within the City. In order to do this, the City provides water to contractors with an account at Public Works. The City also offers the option of providing water on site to contractors through the use of hydrant meter. In order to increase the availability of hydrant meters to contractors and to guarantee that meters are returned in a timely fashion, the City wishes to implement a refundable deposit for the use of a hydrant meter. This deposit would be returned when the hydrant meter is returned to the City in working order and the water bill has been fully paid.

FISCAL IMPACT:

\$1,200 is the current fee charged to the City when these flow testing services have been contracted out and are in line with our neighboring jurisdictions. The \$2,000 deposit for the hydrant meter would be returned when the hydrant meter is returned back to the City.

STAFF RECOMMENDATION:

Approval. This arrangement would limit the liability on staff.

SUGGESTED MOTION(S):

I move we approve the amendment to the 2022-23 Fee Schedule to include a Fire Flow Testing fee in the amount of \$1,200 and a refundable Hydrant Meter Deposit of \$2,000.

Development Fees

Development Ordinance Book (printed or flash drive)	\$20 flat fee
Major Subdivision Preliminary Plat Review Fee (5 or more lots)	\$10 per lot (\$200 min).
Planned Unit Development Rezoning Request	\$5 per acre (\$200 min, \$500 max)
General Rezoning Request	\$200 flat fee
Conditional Rezoning Request	\$300 flat fee
Special Use Permit	\$300 flat fee
Final Plat Major Subdivision (more than 5 lots)	\$50 flat fee
Final Plat Minor or Exempt Subdivision (up to 5 lots)	\$25 flat fee
Variance Request	\$300 flat fee
Non-Residential Site Plan TRC Review Fee (excluding subdivision)	\$250 (1 st and 2 nd included), \$100 per review after 2 nd review.
Annexations	\$250 per request
Administrative Amendment to Council Approved Plans	\$100 flat fee
Wireless Telecommunications Facility	\$500 legal review fee in addition to other applicable fees
ADD: Fire Flow Test Fee	\$1,200 for all requested fire flow test and re-test

Non-payment Fee	\$40
*Water Deposit (Inside Residential)	\$80
*Water Deposit (Outside Residential)	\$160
*Water Deposit (Inside Non-residential)	\$100
*Water Deposit (Outside Residential)	\$200
Meter Tampering Fee	\$100
**Meter Testing Fee (Inside)	\$10
**Meter Testing Fee (Outside)	\$20
Service Initiation Fee	\$10
Backflow Annual Testing (For Irrigation Accounts)	\$10.42 per month
ADD: Hydrant Meter Deposit	\$2,000



STAFF REPORT

SUBJECT:	LIEUTENANT POSITION (PAY GRADE 24)
PREPARED BY:	CAPTAIN DANIEL SISK

REQUESTED ACTION:

The Graham Police Department is requesting the City Council amend the pay plan to add a Police Lieutenant position at a pay grade of 24.

BACKGROUND/SUMMARY:

Within the next six years, four out of the five current command staff members will be retiring. These retirements will create a large void of experience in the upper management ranks. In order to limit the effects of these departures we, as current command staff, have identified a strong need to formulate a viable succession plan. This will allow the agency to continue to cultivate talent from within its own ranks thus eliminating the need to hire from an external talent pool. Currently, our rank structure allows for minimal experience in a middle management environment that combines administrative tasks and operations tasks. In order to alleviate this challenge, we request the addition of a Lieutenant/Watch Commander position in the 2022/2023 fiscal year. A Lieutenant will supervise Sergeants and jointly supervise and direct the COP team. In this function, we would be able to coach and mentor supervisors to be better prepared to perform the job functions of upper management.

Not only do these positions provide succession planning it also supports the new growth within the department. In conjunction with our agency's 2022-2027 Strategic Plan and a workload assessment completed in 2020, we identified a deficiency in our staffing levels. The most recent workload assessment found that our agency needed 35 additional officers in the patrol division to handle the current call volume. As a vital need, we requested funding for 10 additional sworn law enforcement officer positions to which we were provided funding for 2 additional officers and were directed to secure grant funding for additional staff needs. To further expand our service capabilities, we applied for and were awarded grant funding for six officers to serve as the agency's Community-Oriented Policing (COP) team. This addition not only provided needed personnel but also provided a solution for the agency's need to bolster our community engagement and outreach. Our agency currently has six open positions which would supply officers to the planned COP team. With the beginning of our agency's COP team being imminent, it is necessary to have a command structure in place to have efficient supervision.

As a matter of function, it is most appropriate to align the COP team with the patrol division of the police department. Our current patrol division is comprised of four squads that are supervised by one Sergeant each. Each patrol Sergeant reports directly to the Patrol Division Captain which is a span of control of 4 (1:4) for the Patrol Captain. As it stands now there would be no rank structure for the COP team so they would report directly to the Patrol Captain. Thus, the span of control would grow from one supervisor to four subordinates to one supervisor to ten subordinates (1:10). The most recent FEMA publication states that the most optimal span of control is one supervisor to five subordinates (1:5).

COSTS

These additions do not include additional personnel for the department. We have had an unforeseen delay in deploying personnel due to a small recruitment pool. With that delay, we have enough money in our current budget to offset any needed budget increases for FY 22-23.

CONCLUSION

It is necessary to begin the selection process for the Lieutenant position. This allows us to proceed with our succession plan and the full implementation of our COP team. The attached job description needs to be added for the police department. The job class would be assigned a pay grade of 24.

FISCAL IMPACT:

Based on projected data, which includes the end of probation salary raise and a tier 2 performance raise, the **highest possible increase** to the salaries and wages line item would be \$22,747 per position beginning in the 2023-2024 FY.

This was calculated by adding the pay increases necessary to accommodate three rank promotions, a Sergeant to Lieutenant- a Corporal to Sergeant - and a Patrol Officer to Corporal.

STAFF RECOMMENDATION:

Approval.

SUGGESTED MOTION(S)

I move to approve the addition of two Police Lieutenant positions at a pay grade 24.



Police Lieutenant

General Statement of Duties

Performs responsible, managerial law enforcement work as a watch commander in the city's police department.

Distinguishing Features of the Class

An employee in this class is responsible for performing advanced, managerial law enforcement work as watch commander and coordinator of the Community-Oriented Policing program. Work includes management and planning of field operations, assisting in major investigations, public relations, policy review, reporting, and other management duties. This employee must be thoroughly familiar with departmental policies, procedures, and applicable federal, state, and local laws pertaining to police work. This employee must be committed to the Community-Oriented Policing philosophy and the mission of the police department. Judgment, initiative, and calm control are required. Work involves frequent public contact where tact, firmness, and decisiveness are required. Work is performed in accordance with departmental policy and state and federal law, supplemented by specific instructions from superior officers. Work is performed under the general supervision of a police captain and is evaluated for effectiveness, visibility, aggressiveness, and apprehensions. Work is reviewed by observation and review of written reports.

Illustrative Examples of Work

Directs all field operations while on shift including the following: planning special events, responding to all serious or unusual occurrences, evaluating operational performance, computing statistical information, reviewing reports, taking complaints, and addressing personnel issues.

Manages and coordinates all COP activity and patrol operations with direct supervision of all patrol sergeants and the COP team; conducts sergeant and COP team members' performance evaluations; reviews officer evaluations; approves and/or issues disciplinary actions; schedules sergeants for duty.

Monitors city-wide police activity during shifts.

Conducts field operations overview during new employee orientation; conducts continuing education as assigned.

Plans, executes, and evaluates police-sponsored community events.

Manages ride-along program, conducts agency tours, handles public complaints, attends meetings, and represents the department at various functions.

Conducts personnel investigations, investigates complaints, and recommends disciplinary actions.

Reviews and develops policies and procedures; presents to captain for approval.

Prepares reports to include community-oriented policing activity reports, aggregate incident reports, use of force reports, traffic reports, and related reports.

Prepares field operations budget recommendations and presents them to the captain.

Maintains community relations through contact with citizens, delivers public presentations, develops positive relations with other public service agencies, and prepares news releases for the media.

Other related duties as assigned.

Knowledge, Skills, and Abilities

Thorough knowledge of state and federal laws, local ordinances, and police department standard operating procedures.

Thorough knowledge of law enforcement principles, practices, methods, and equipment.

Thorough knowledge and understanding of the Community-Oriented Policing program and its mission and objectives.

Thorough knowledge of community organizations and leaders.

Thorough knowledge of practices, materials, resources, techniques, and equipment pertinent to this position.

Considerable knowledge of the city streets and layout. Skill in the use of firearms and other police equipment. Skill in the application of self-defense tactics.

Excellent grammar, spelling, punctuation, and composition skills. Skills in communicating effectively orally and in writing.

Skill in operating office equipment including computers, phones, fax, and other related equipment. Ability to direct, supervise, train, and effectively lead field operations.

Ability to act with sound judgement in routine and emergency situations. Ability to prepare clear and concise reports.

Ability to build and maintain cooperative and effective relationships with the community and staff.

Physical Requirements and Working Conditions

Work in this position is light work (exerting up to 20 pounds of force occasionally, and/or up to 10 lbs. of force frequently, and/or negligible amounts of force constantly to move objects).

Physical activities include climbing, balancing, stooping, kneeling, crouching, crawling, reaching, standing, walking, pushing, pulling, lifting, fingering, grasping, feeling, talking, hearing, and repetitive motions. This employee must have the visual acuity to drive a vehicle, operate a computer terminal, make visual inspections, operate measurement devices, and perform extensive reading. The employee is subject to indoor and outdoor environmental conditions that may include extreme heat and cold. The employee is at a high risk for coming in contact with potentially infectious bodily fluids.

Position Qualifications

Position requires an Associate's degree in a related field, a Bachelor's degree is preferred, completion of basic law enforcement training certified by the NC Criminal Justice Education and Training Standards

Commission, a valid driver's license, and extensive law enforcement experience with at least 2 years of supervisory experience.

Individuals who have received their advanced law enforcement certificate through North Carolina Criminal Justice Training and Standards and have five years of supervisory experience will be eligible if they do not have the minimum education requirements.

It is preferred that an individual must have completed or be able to complete a Department approved Advanced Management/Command level school within one year of promotion.

Inclement Weather/Emergency Response: Essential

Safety Sensitive Position: Yes

FLSA Status: Non-Exempt

Disclaimer

This classification specification has been designed to indicate the general nature and level of work performed by employees within this classification. It is not designed to contain or be interpreted as a comprehensive inventory of all duties, responsibilities, and qualifications required of employees to perform the job. The Physical Requirements and Working Conditions section of this classification may vary from position to position and a more thorough description of these elements can be found in the employee's Position Description Questionnaire (PDQ). The City reserves the right to assign or otherwise modify the duties assigned to this classification.

07/2022

05/2001

04/2018

10/2022

COMMUNITY ORIENTATED POLICING – UPDATE

TO: CHIEF MK COLE
FROM: CAPTAIN DL SISK
SUBJECT: STATUS UPDATE - COP TEAM
DATE: OCTOBER 5, 2022
CC: ASSISTANT CHIEF RS KING

Within the next six years, four out of the five current command staff members will be retiring. These retirements will create a large void of experience in the upper management ranks. In order to limit the effects of these departures we, the current command staff, have identified a strong need to formulate a viable succession plan. This will allow the agency to continue to cultivate talent from within its own ranks thus eliminating the need to hire from an external talent pool. Currently, our rank structure allows for minimal experience in a middle management environment that combines administrative tasks and operations tasks. In order to alleviate this challenge, we request the addition of a Lieutenant/Watch Commander position in the 2022/2023 fiscal year. A Lieutenant will supervise Sergeants and jointly supervise and direct the COP team. In this function, we would be able to coach and mentor supervisors to be better prepared to perform the job functions of upper management.

Not only do these positions provide succession planning it also supports the new growth within the department. In conjunction with our agency's 2022-2027 Strategic Plan and a workload assessment completed in 2020, we identified a deficiency in our staffing levels. The most recent workload assessment found that our agency needed 35 additional officers in the patrol division to handle the current call volume. As a vital need, we requested funding for ten additional sworn law enforcement officer positions to which we were provided funding for two additional officers and were directed to secure grant funding for additional staff needs. To further expand our service capabilities, we applied for and were awarded grant funding for six officers to serve as the agency's Community-Oriented Policing (COP) team. This addition not only provided needed personnel but also provided

a solution for the agency's need to bolster our community engagement and outreach. Our agency currently has five open positions, which include the six additional officers added through grant funding. With the beginning of our agency's COP team being imminent, it is necessary to have a command structure in place to have efficient supervision.

As a matter of function, it is most appropriate to align the COP team with the patrol division of the police department. Our current patrol division is comprised of four squads that are supervised by one Sergeant each. Each patrol Sergeant reports directly to the Patrol Division Captain which is a span of control of four (1:4) for the Patrol Captain. As it stands now there would be no rank structure for the COP team so they would report directly to the Patrol Captain. Thus, the span of control would grow from one supervisor to four subordinates to one supervisor to ten subordinates (1:10). The most recent FEMA publication states that the most optimal span of control is one supervisor to five subordinates (1:5).

It is necessary to begin the selection process for the Lieutenant position. The attached job description needs to be added for the police department. The job class would be assigned a pay grade of 24. This will allow us to begin a COP team and to start the coaching and development of our agency's supervisory personnel in preparation for the future turnover in the command staff.

LAW ENFORCEMENT SUCCESSION PLANNING

A GUIDE TO DEVELOPING OUR FUTURE LEADERS

An Overview of Succession Planning

The International Association of Chiefs of Police identifies succession planning as the process of reviewing an agency for leadership talent, identifying possible successors, and then providing those individuals with the training, mentoring, and support they need to prepare themselves for critical roles within the organization as vacancies occur. Succession planning is often associated primarily with the chief executive's position, but it is also essential to identify and prepare leaders for all levels of management. Developing a succession plan for each level of supervision ensures that no matter what personnel changes occur, there will be experienced and trained employees available to step into leadership roles. For this reason, the leadership development of staff is critical for agencies of any size.

Succession planning is more than merely appointing someone to succeed the chief or another executive in the agency. It also requires investing heavily in the development and training of those individuals. Effective succession planning models often include:

- Conducting internal assessments to determine areas of strength and areas for improvement
- Emphasizing and providing leadership training for command staff and line supervision
- On-the-job training such as appointing acting shift commanders, or allowing line officers to rotate the duty of preparing and conducting roll call briefings
- Promoting situational leadership training
- Offering courses on budgets, computer skills, writing, and instructor training
- Mentoring personnel through one-on-one discussions, hands-on training, and formal presentations on behalf of the chief to town administrators and stakeholders.

Daily, police administrators spend a tremendous amount of their hectic schedules building positive partnerships with the community, addressing crime, and sorting through dozens of other issues with political leaders and agency personnel. It is just as important for the command staff to spend a significant amount of their time developing the current and future leaders of their departments.

The Importance of Succession Planning

One of the highest priorities for any police leader should be the development of their subordinates. This is vital to maintaining the continuity of the department's mission, eliminating uncertainty and confusion in times of change, and promoting an ongoing level of trust and confidence among stakeholders. Effective grooming of potential leaders often eliminates the need to go outside the organization in search of promotable talent.

The nature of policing is often unpredictable and subject to frequent changes. Considering the frequency and speed at which this change can occur, the importance of succession planning – along with the continuity it helps to create – becomes glaringly obvious. Police executives and town officials all agree that an investment in personnel development results in improved morale and employee retention. More specifically, it results in the retention of extraordinarily competent staff members, and the ongoing retention of highly qualified people ensures that the department will always be the best it can be. Another important benefit of succession planning is the time and cost savings associated with preparing internal candidates for promotion. It is generally less expensive and time consuming than the



processes associated with identifying, hiring, training and acclimating an external candidate to the organization. Effective succession planning is not merely an investment in the employee, but a larger investment in the department and the community it serves.

In Graham, there are two primary factors which necessitate the immediate incorporation of succession planning – City growth and future retirements. Both deal with the type of rapid, unpredictable change just mentioned.

The current staffing compliment for the Police Department is 41 members, twelve of which serve in some supervisory capacity. This ratio allows for an average span of control of about four subordinates, and the agency's current leadership structure could effectively manage a department of up to 50 employees. However, the agency is likely to surpass this number in 7-10 years. Projections from the Cities Planning Department show that the current pace of growth will increase the municipal population nearly 12.6%, to ~18,925 residents by the year 2030. This means the effective delivery of police services will require an increase in the overall number of personnel. The addition of personnel will inevitably lead to more specialized assignments, as well as an increased span of control; hence the need for qualified leaders to serve in supervisory positions.

Specific retirement dates can be difficult to project, but it is a variable to consider in the succession planning process. Of the five executive managers currently serving, four will be eligible for retirement in the next 2-7 years, the remaining seven mid-level managers that are currently serving, three will eligible for retirement in the next 4-6 years. Pending retirement legislation in North Carolina could reduce this time frame to 1-5 years. Of course, actual departures depend on certain variables that only the aspiring retiree can control. Some will leave the agency sooner, while others will opt to work beyond their retirement eligibility date. The important point for readers to understand is that the agency will be dealing with the critical issues of organizational growth and retirements simultaneously. Without effective succession planning, this is a recipe for organizational dysfunction.

Succession Planning vs. Career Ladder

While the Police Department has long enjoyed the benefits of a defined career ladder program for line personnel, it has only recently recognized the need to adopt a succession planning philosophy that better prepares potential leaders to assume the responsibilities of advanced promotions. It would be unwise, however, to incorporate a succession planning model compromised solely of training checklists and service requirements. It is important to remember that career ladder advancements are non-competitive and non-promotional in nature. Conversely, the goal of succession planning is to prepare identified talent for eventual promotion, which is likely to be very competitive in nature to determine the person best suited for the job.

As such, the succession planning model must focus on grooming personnel to assume the duties, responsibilities, and liabilities that come with formal promotion to a management role. This means emphasizing personnel development in key dimensions which include, but are not limited to:

- Accountability
- Administrative effectiveness
- Championing new ideas
- Confronting adversity
- Communication ability
- Flexibility and adaptability
- Interpersonal effectiveness
- Initiative and motivation skill
- Leadership style
- Managing talent

- Decision making
- Developmental orientation
- Planning / organizational adeptness
- Strategic thinking

The incorporation of succession planning is also intended to address several SWOT (strengths, weaknesses, opportunities, threats) issues and stakeholder priorities identified in the agency's overall Strategic Plan. They include:

SWOT Issues

- Increasing the professional knowledge of department members
- Maintaining a strong command staff within the agency
- Leveraging the experience and education of current personnel
- Enhancing networking and partnerships with other law enforcement agencies / organizations
- Focusing on the professional development of all staff

Stakeholder Priorities

- Effective succession planning for young officers/leaders
- Enhancing and maintaining esprit de corps & overall job satisfaction
- Emphasizing an appropriate police culture and focus on core values

There are numerous variables to consider in adopting a succession planning philosophy, but the primary goal is to focus on the duties required of each leadership position, call attention to the challenges those leaders will face, and emphasize the further development of employees' transferrable skills. The administration's role is to afford potential leaders the opportunities, the choices, and the challenges necessary to succeed.

Graham's Succession Planning Pledge and Goals

Pledge

"The Graham Police Department is committed to the long-term success of its personnel, and strives to help every department member reach their full potential. Our succession planning efforts will focus on key roles within the organization. We will groom our identified talent to assume those formal leadership and managerial positions. We will go beyond simply replacing people as vacancies arise, or training employees based on a job description, by emphasizing the importance of mission, values, ethics, attitudes, agency loyalty, competencies, and individualized development paths. We will formalize in policy the requirement and practice of internal promotions whenever possible, while stressing the importance of external recruitment to attract future talent."

Goals

The Graham Police Department seeks to accomplish four overarching goals through the incorporation of succession planning. These goals are: 1) to develop talent in a way that reduces the risk of no leadership or poor leadership; 2) to provide for the sustainability and future growth of the organization; 3) to create a leadership culture commensurate with values-based police management; and, 4) to maintain public trust and confidence through proper police administration.

Practices and Strategies

To achieve these succession planning goals, the Graham Police Department embraces the following practices and strategies:

- ✓ The promotion of formal education in career related fields of study, and assisting employees in leveraging the benefits of the Cities tuition reimbursement program
- ✓ The utilization of promotional assessment centers as a means of evaluating job suitability against multiple performance dimensions
- ✓ Where possible, the promotion of internal candidates and use of promotion eligibility lists
- ✓ The creation of annual professional development goals for all employees
- ✓ The development of reading lists and available resources for aspiring leaders and managers
- ✓ Maintaining affiliations with professional groups such as the International Association of Chiefs of Police, the Police Executive Research Forum, the N.C. Association of Chiefs of Police, the FBI National Academy Associates, and the N.C. Police Executives Association
- ✓ The completion of the FBI Leadership Trilogy course for all personnel holding the rank of Sergeant or above
- ✓ Participation in nationally renowned police leadership courses provided by institutions like the FBI National Academy, the Command College of Northwestern University, the Southern Police Institute at the University of Louisville, the Administrative Officer's Management Program at N.C. State University, Fayetteville State University's West Point Leadership Academy, and the N.C. Justice Academy Managers Development Program
- ✓ Proper modeling and use of values-based decision making in all levels of leadership
- ✓ The continued incorporation of cascading communication strategies throughout the department
- ✓ Utilization of web-based development resources such as the FBI Virtual Academy and IACP.Net
- ✓ Advanced training in the areas of risk management and law enforcement accreditation; the assignment and management of certain accreditation standards to personnel
- ✓ Creating opportunities for personnel to serve in an acting command capacity for defined periods of time, or allowing personnel to shadow divisional leaders
- ✓ Providing opportunities for members to represent the command staff at community events, or to serve as the chief's representative on various boards and committees
- ✓ The delegation of command level tasks such as event planning & ICS functions, conducting topical research, preparing annual analyses, or conducting policy reviews
- ✓ Hosting annual staff retreats for all levels of supervision
- ✓ Emphasizing specialized, subject matter training for topics like grant management and preparation, internal affairs investigations, human resources & personnel law, budgeting, property & evidence management, accreditation, and media relations
- ✓ Incorporating professional development tools from the Cities Human Resources Department
- ✓ The development and delivery of an internal, curriculum based "Chief's University"

Summary

It has been said that the future of Graham is a bright one. Economic development, quality of life, and the general feeling of security are at all-time highs within our community. These variables are already impacting the way public safety services are delivered, and the prosperity of Graham means that more change is inevitable. Not only will these changes result in healthy department growth, but

they will require us to be prepared to lead our organization in new and different ways. The continuity of exceptional police services demands that administrators begin preparation now for securing the future prosperity of the Police Department. For these reasons, this succession planning model is being implemented for the benefit of our leaders, our department, and our community. Because we know that our collective future is only as bright as the men and women who will lead us there.

CALEA Standard 15.1.4

Version 6.14

(O O O O) Succession Planning--

The agency maintains a succession plan for the development of command and executive leadership.³⁴

Commentary--

A succession plan provides a "roadmap" for strategic leadership and management that eliminates gaps in institutional memory, knowledge, and leadership, to improve organizational performance.--

Succession planning provides the means of identifying future leaders within the agency and providing those individuals with the education, training, mentoring, and support they need to prepare them for critical roles when vacancies occur.--

The plan may be one written document or combination of written directives and planning materials used by the agency for managing such strategic initiatives. (O O O O)



STAFF REPORT

SUBJECT:	FEDERAL FORFEITURE FUND BUDGET AMENDMENT 2022-2023
PREPARED BY:	SERGEANT B.T. EDWARDS

REQUESTED ACTION:

The Graham Police Department requests the transfer of federal drug forfeiture revenue to the federal account balance for use.

BACKGROUND/SUMMARY:

The Graham Police Department participates in The Department of Justice Asset Forfeiture Program. This program “is a nationwide law enforcement initiative that removes the tools of crime from criminal organizations, deprives wrongdoers of the proceeds of their crimes, recovers property that may be used to compensate victims, and deters crime” (DOJ, 2009). “One of the ancillary benefits of asset forfeiture is the potential to share federal forfeiture proceeds with cooperating state and local law enforcement agencies through equitable sharing” (DOJ, 2018). Being one of the recipient agencies, the police department receives these funds as we participate in certain investigations.

To use these funds, as directed by NCGS 159-8 contained in the Local Government Budget and Fiscal Control Act, the law enforcement agency’s governing body must authorize the transfer of these revenue funds to a required, separate, budgeted account for its use. The use of these funds rest with the law enforcement agency head. Equitably shared funds shall be used by law enforcement agencies for law enforcement purposes only to add to the department’s budget, not supplement.

FISCAL IMPACT:

There is no cost to the City of Graham as transferred funds come from the equitable sharing program. The funds to be transferred to the federal drug fund budget total \$45,100.

STAFF RECOMMENDATION:

Approval. This request is in compliance with the rules and regulations for the use of forfeiture funds under Federal guidelines.

SUGGESTED MOTION(S)

I move we approve the transfer of federal drug forfeiture revenue to the federal account balance for use.

CITY OF GRAHAM
BUDGET AMENDMENT ORDINANCE
2022-2023

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:

Section 7.

**CAPTIAL PROJECTS AND
OTHER SPECIAL FUNDS**

INCREASE

REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	(DECREASE)
Federal Drug Monies	100.00	35,000.00	34,900.00		
Federal Drug Fund Balance	-	10,200.00	10,200.00		
	100.00	45,200.00	45,100.00	-	45,100.00

Section 7.

**CAPITAL PROJECTS AND
OTHER SPECIAL FUNDS**

INCREASE

EXPENDITURES	APPROVED	AMENDED	INCREASE	(DECREASE)	(DECREASE)
Federal Drug Funds	100.00	45,200.00	45,100.00		
	100.00	45,200.00	45,100.00	-	45,100.00

Adopted this 8th day of November 2022.

Attest:

Mayor Jennifer Talley

Renee M. Ward, City Clerk



STAFF REPORT

SUBJECT:	APPROVE REVISED PROJECT BUDGET AND RESOLUTION OF ACCEPTANCE OF FUNDS FOR WWTP UPGRADE AND EXPANSION
PREPARED BY:	JULIANNE CORDON, FINANCE OFFICER

REQUESTED ACTION:

Approve revised project budget and Resolution of Acceptance of Funds for the WWTP Upgrade and Expansion Project.

BACKGROUND/SUMMARY:

Pursuant to our nutrient capacity study completed in 2019, it concluded that a substantial upgrade to our WWTP is required in order to meet current permit requirements for nutrient removal. The project will also expand our permitted capacity from 3.5mgd to 5.0mgd.

FISCAL IMPACT:

The total project is estimated at \$84,649,290 and will represent the largest capital expenditure in the history of the City. The State Water Infrastructure Authority has now approved a Clean Water State Revolving Fund (CWSRF) loan for \$52,445,000 with up to 10% in contingency funds, and up to 25% of the loan (maximum of \$1,500,000) as forgivable with the remainder repayable at a maximum interest rate of 0.16%. The balance of the funding will come from an Additional Supplemental Appropriations for Disaster Relief Act of 2019 (ASADRA) loan in the amount of \$23,000,000 with up to 10% in contingency funds, and repayable at a maximum interest rate of 0.18%. Closing fees on the loan amount to \$1,659,790 or 2% of total. In FY 2020-2021, Water and Sewer fees began a graduated increase to cover future debt service requirements.

	CWSRF	ASADRA	ARPA Grant	Total	Forgiveness
2020 Spring	\$7,694,000	\$23,000,000	\$0	\$30,694,000	\$500,000
2021 Spring	\$4,600,000	\$0	\$0	\$4,600,000	0
2021 Fall	\$10,151,000	\$0	\$0	\$10,151,000	\$500,000
2022 Spring*	\$30,000,000	\$0	\$0	\$30,000,000	\$500,000
Total DWI Funding	\$52,445,000	\$23,000,000	\$0	\$75,445,000	\$1,500,000
Total w/ 10% Contingency	\$57,689,500	\$25,300,000	\$0	\$82,989,500	

\$1,659,790.00 Loan Fees

STAFF RECOMMENDATION:

Approval.

SUGGESTED MOTION(S):

I move we approve the revised project budget and the Resolution of Acceptance of Funds for the WWTP Upgrades and Expansion Project.

CAPITAL PROJECT ORDINANCE WWTP UPGRADE AND EXPANSION

WHEREAS, On February 9, 2021, the City Council of the City of Graham hereby created the initial WWTP Upgrade and Expansion Capital Project Ordinance.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM, NORTH CAROLINA, that pursuant to Section 13.2, Chapter 159 of the General Statutes of North Carolina, the following revised Capital Project Ordinance is hereby adopted:

Section 1. The Project authorized is WWTP Upgrade and Expansion.

Section 2. The officials of the City of Graham are hereby directed to proceed with this project within the terms of the project. Staff is authorized to execute change orders within the budget ordinance.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

Proceeds from Retained Earnings	\$ 1,659,790
Proceeds from ASADRA State Loan	\$25,300,000
Proceeds from CWSRF State Loan	\$57,689,500
TOTAL	<u>\$84,649,290</u>

Section 4. The following amounts are appropriated for this project:

Professional Services – Planning & Design	\$ 2,726,845
Professional Services – Construction	\$ 3,479,228
Construction – Crowder	\$74,653,000
Contingencies	\$ 2,130,427
Loan Fees	\$ 1,659,790
TOTAL	<u>\$84,649,290</u>

Section 5. The Finance Director shall report on the financial status of this project as directed by the City Council and will inform the Council of any unusual occurrences.

Section 6. Copies of this project ordinance shall be made available to the City Manager and the Finance Director for direction in carrying out this project.

Section 7. This ordinance shall take effect upon passage.

This the 8th day of November 2022.

Jennifer Talley - Mayor

ATTEST:

Renee M. Ward – City Clerk

RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conversation projects, and

WHEREAS, the North Carolina Department of Environmental Quality has offered a (State Revolving Loan, State Grant, or State Bond Loan) in the amount of \$82,989,500 for the construction of the Wastewater Treatment Plant Upgrade, and

WHEREAS, The City of Graham intends to construct said project in accordance with the approved plans and specifications,

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF GRAHAM:

That the City of Graham does hereby accept the (State Revolving Loan, Grant, or State Bond Loan) offer of \$82,989,500.

That the City of Graham does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the (loan or grant) offer, Section II- Assurances will be adhered to.

That Megan Garner (City Manager), the **Authorized Official**, and successors so titled, are hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **City of Graham** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the **8th day of November 2022**, at Graham, North Carolina.

(Jennifer Talley)
Mayor, City of Graham

Fund #78 WWTP Upgrade

Revenue Sources: \$84,649,290 (\$82,989,500 Loan & \$1,659,790 Fees)

1. Proceeds from Fund Balance \$1,659,790
 - a. 78-3500-0000
2. ASADRA State Loan \$25,300,000
 - a. 78-3500-1000
3. CWSRF State Loan \$57,689,500
 - a. 78-3500-2000

Expenditures: \$84,649,290 (\$82,989,500 Loan & \$1,659,790 Fees)

1. Professional Services - Planning & Design \$2,726,845
 - a. 78-5900-0400
2. Professional Services - Construction \$3,479,228
 - a. 78-5900-0500
3. Construction – Crowder \$74,653,000
 - a. 78-5900-1000
4. Contingencies \$2,130,427
 - a. 78-5900-2000
5. Loan Fees \$1,659,790
 - a. 78-5900-3000

	CWSRF	ASADRA	ARPA Grant	Total	Forgiveness
2020 Spring	\$7,694,000	\$23,000,000	\$0	\$30,694,000	\$500,000
2021 Spring	\$4,600,000	\$0	\$0	\$4,600,000	0
2021 Fall	\$10,151,000	\$0	\$0	\$10,151,000	\$500,000
2022 Spring*	\$30,000,000	\$0	\$0	\$30,000,000	\$500,000
Total DWI Funding	\$52,445,000	\$23,000,000	\$0	\$75,445,000	\$1,500,000
Total w/ 10% Contingency	\$57,689,500	\$25,300,000	\$0	\$82,989,500	

\$1,659,790.00 Loan Fees

WWTP Expenditure Estimate

CAPITAL PROJECT				
Category	Vendor	Amount	Notes	Account
Professional Services	HAZEN	\$ 1,986,845.00	not to exceed	78-5900-0400
Professional Services	Surveying	\$ 213,155.00	not in contract cost - maint bldg paid out of operating budget for now	78-5900-0400
Professional Services	HAZEN	\$ 1,000,000.00	Project Oversight - not in contract cost (\$250/hr @ 4000 hours)	78-5900-0400
Total		\$ 3,200,000.00		
Construction				78-5900-1000
Total		\$ -		
Loan Fees		\$ 615,000.00	2% of loan + \$1,120 extra	78-5900-3000
Total		\$ 615,000.00		
Total		\$ 3,815,000.00		

WWTP Revenue Estimate

CAPITAL PROJECT				
Category	Vendor	Amount	Notes	Account
Loan Receipt	ASADRA	\$ 3,200,000.00		78-3500-1000
Loan Receipt	CWSRF	\$ -		78-3500-2000
Proceeds from W&S Fund	COG	\$ 615,000.00	Min to cover loan fees	78-3500-0000
Proceeds from Mebane	COM		21.42% on loan fee	78-3500-3000 ANNUAL BILL?
Total		\$ 3,815,000.00		



STAFF REPORT

SUBJECT:	STREET CLOSURE FOR GRAHAM CHRISTMAS PARADE
PREPARED BY:	AARON HOLLAND, ASSISTANT CITY MANAGER

REQUESTED ACTION:

Approve the 61st Annual Graham Christmas Parade request and street closures submitted by the Graham Area Business Association for December 3, 2022.

BACKGROUND/SUMMARY:

The Graham Area Business Association requests the approval of the 61st Annual Graham Christmas Parade as described in the attached application and the following parade route. The route would include the procession beginning at Parker Street from Sideview to Elm Street, preceding down North Main Street to South Main Street, and ending on McAden Street at Graham Middle School's parking lot. The requested closure of these streets would be from 8am to 1pm and would need to also be approved by NCDOT for any State roads.



FISCAL IMPACT:

There is no fiscal impact to the City of Graham in order to close the street.

STAFF RECOMMENDATION:

Approval. The various City departments that may be involved have reviewed the request and have provided the organizer with pertinent information that will need to be satisfied.

SUGGESTED MOTION(S):

I move we approve the request from the Graham Area Business Association for the 61st Annual Graham Christmas Parade on December 3, 2022, which includes the closure of any listed City streets and pending approval from NCDOT for the closure of State roads.



1. Your email: grahamcinema@triadbiz.rr.com
2. Event name (if applicable): Graham Christmas Parade
3. Reason for the event (be specific): religious annual parade
4. Event date(s): Dec. 3, 2022

5. Provide your event's setup, start, end, and cleanup times. (Ex: Name of Event 6:30 a.m. - 8 a.m. setup | 8 a.m. event start | 2 p.m. event ends | 2 p.m. - 4 p.m. cleanup):

8 am Parker St. closed from Sidenew to Elm St.

6. Event category Rec Ctr. Parking lot for horses. Climax St. and Main to McAden St. E McAden St. to Middle School. Lineup by 9am Parade starts at 10 am until 1 pm.
- Please check all that apply appropriate category for your event.

☐ Concert/Performance

☐ Exhibit

☐ Farmer's Market

☐ Festival/Fair

☒ Parade/Procession

☐ Run/Walk

☐ Food Truck Rodeo

☐ Other: _____

7. Where are you requesting for your event to occur?

Be specific identifying street names or City facilities being requested for use?

see above

8. Does your event include the request to close streets?

Yes ☒ No ☐

9. Identify the street(s) you are requesting to have closed for your event.

Parker St. Main St. McAden St. Climax St.

10. Identify your street closure time(s) and will you anticipate when they will return to normal traffic flow.

8 am - 1 pm or earlier. Open as soon as parade concludes



11. What is your anticipated event attendance total? 2000

12. Does your event include musical entertainment?

☒ Yes ☐ No

13. Where will your musical entertainment be located?

on street on parade

14. Will sound amplification be used? ☒ Yes ☐ No

If yes, provide the start time and end time.

10 - 1 pm

15. Will inflatables or similar devices be used at your event? ☐ Yes ☒ No

If yes, please describe. *Please note, Insurance requirements must be met in order to offer this activity.

16. Does your event include the use of fireworks, rockets, lasers, or other pyrotechnics?

☐ Yes ☒ No

If yes, please describe. ***Note: These requests will be subject to the approval of the City of Graham Police & Fire Departments in conjunction with State Laws governing this type of activity.

17. Will alcohol be served, sold or consumed at your event?

☐ Yes ☒ No

If you answered yes to the question above, please check all that apply to your event.

☐ Alcohol will be available free of charge

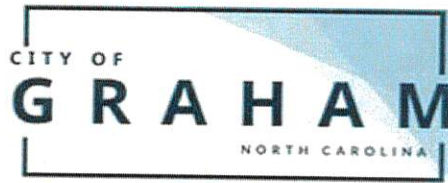
☐ Alcohol will be by purchase only

☐ Alcohol being served and or sold at my event includes

☐ Beer only

☐ Wine only

☐ Beer & Wine



18. Describe your security plan to ensure the safe sale and or distribution of alcohol at your event.

N/A

19. Does your event include food concession and/or food preparation areas?

Yes ☐ No ☒

If yes, please select the method of cooking that pertains to your event.

☐ Gas

☐ Electric

☐ Charcoal

☐ Other: _____

20. Do you plan to provide portable toilets at your event?

Yes ☒ No ☐

If yes, list the total number of portable toilets: 3 ~~at~~ 1 at Parker and Cates Circle

21. Portable toilet company name: Lloyd's Portajohns 1 at Main and Parker
at Culp on Parker

If no, please explain _____

22. Explain your plan for cleanup and removal of trash, waste, and garbage during & after your event.

Street sweeper usually follows parade route

Does your event require additional trash receptacles?

Yes ☐ No ☒ But we do need barricades

If yes, what is the requested number of additional trash receptacles? _____

23. Will there be any tents, canopies or temporary structures at your event?

Yes ☐ No ☒



24. Applicant name and affiliated agency if applicable

Graham Christmas Parade Committee sponsored by
Graham Area Business Assoc.

25. Applicant's Address

PO Box 872 Graham, NC 27253

26. Applicant's phone number

336-516-7036

27. Applicant's email address

grahamcinema@triadbiz.rr.com

28. Provide the event's point of contact if different from the applicant. (First & Last name, Phone number, & Email Address)

Chuck Talley 336-516-7036
chucktalley21@hotmail.com

29. How many years has this event taken place? 60 years this will be #61

Please do not contact any other agencies (i.e. Alamance County Rescue) The parade committee handles this. Thanks.



STAFF REPORT

SUBJECT:	ENGINEERING CONTRACT WITH ALLEY, WILLIAMS, CARMEN & KING FOR 10 INCH WATERLINE REPLACEMENT PROJECT
PREPARED BY:	AARON HOLLAND, ASSISTANT CITY MANAGER

REQUESTED ACTION:

Approve the engineering contract with Alley, Williams, Carmen & King for the 10-inch Waterline Replacement Project.

BACKGROUND/SUMMARY:

Please find attached the engineering contract from Alley, Williams, Carmen, & King (AWCK) for the City of Graham's 10-inch Waterline Replacement Project from the Water Plant back into town. This waterline expansion project will abandon an existing 10-inch cast iron water main with a total cost projected to be \$17.25 million. According to the proposed contract, the engineering cost is \$1,257,925.00 which is approximately 7.3% of the total project budget and is consistent with past projects and industry norms.

Once approved, AWCK would meet with staff and solidify the alignment, send letters and begin surveying for the waterline in December and January. The length of the waterline will make it an extended design process - including the crossing of the NCRR and Haw River.

FISCAL IMPACT:

The City has already secured \$17.25 million in funding for this project.

STAFF RECOMMENDATION:

Approval.

SUGGESTED MOTION(S):

I move we authorize the City Manager and City Attorney to effectuate the engineering contract with Alley, Williams, Carmen & King for the 10-inch Waterline Replacement Project.

**STANDARD FORM OF AGREEMENT BETWEEN
OWNER AND ENGINEER FOR PROFESSIONAL SERVICES**

STATE OF NORTH CAROLINA

COUNTY OF ALAMANCE

THIS AGREEMENT made and entered into this 8th day of November 2022, by and between the **City of Graham**, a North Carolina Municipal Corporation (hereinafter called the "**OWNER**"), and **Alley, Williams, Carmen & King, Inc.**, a North Carolina Corporation located in Burlington, North Carolina (hereinafter called the "**ENGINEER**").

WHEREAS, the OWNER intends to secure engineering services related to the design, permitting, and construction of the replacement of the existing 10" waterline that connects the Graham/Mebane Water Treatment Plant with the City of Graham's water distribution system. The existing 10" waterline generally runs along Highway 70, Highway 49, East Parker Street, and East Elm Street. The proposed project would replace this waterline with a 16" waterline that would cross Back Creek, the Haw River, and the NCRR before entering the city limits at approximately the same point as the existing 10" waterline. The project is described on the attached map and the design and construction of the line may be phased; hereinafter referred to as the **Project**, and

WHEREAS, the OWNER and ENGINEER in consideration of their mutual covenants, herein agree in respect of the performance of professional engineering services by ENGINEER and the payment for those services by OWNER as set forth below.

SECTION 1 - BASIC SERVICES OF ENGINEER

1.1. General

1.1.1. ENGINEER shall provide for OWNER professional engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional engineering representative for the Project, providing professional engineering consultation and advice, and furnishing customary civil engineering services and customary surveying services incidental thereto.

1.2. Final Design, Land Surveying, and Permitting Phase (Phased Lump Sum).

1.2.1. Create a property owner list for parcels within the project corridor and mail survey/project notification letters to property owners prior to performing fieldwork.

1.2.2. Coordinate with NC One Call for the location of underground utilities and the marking of utilities. Contact local utility companies to confirm the size, location, and material type of underground utilities within the project corridor.

1.2.3. Perform a physical survey to provide sufficient data for producing engineering design drawings for the Project.

1.2.3.1. Set adequate horizontal and vertical controls for the survey based on North Carolina State Plane Coordinates (NAD 83) and vertical control based on NAVD 88.

- 1.2.3.2. Provide temporary benchmarks or control points at the beginning and end of the project and throughout the project as deemed necessary by ENGINEER.
- 1.2.3.3. Survey corridor limits are anticipated to be minimal and involve sanitary sewer manhole locations and inverts, water valves, hydrants, storm drain, and outstanding topographical structures that may impact access to the sewer main for rehabilitation.
- 1.2.4. An overall drawing of existing water and sewer mains and other existing utilities in the vicinity of existing water mains within corridor limits will be prepared using GIS data provided by the County and or OWNER. GIS parcel data will also be shown on the overall map.
- 1.2.5. Existing survey data from previous OWNER projects may be utilized during surveying.
- 1.2.6. Prepare preliminary alignment and design and review with OWNER. Coordination with property owners is expected to be needed. This coordination is limited to those required to complete the water project as noted in the scope of services. Additional discussions or negotiations on behalf of OWNER shall be outside the limits of this Agreement.
- 1.2.7. Work with OWNER's subcontractor, Hazen and Sawyer, PC, to determine the final size of the waterline. This modeling will utilize the OWNER's existing water model and will be limited to just waterline sizing for the proposed replacement.
- 1.2.8. Prepare for the incorporation in the Contract Documents final drawings to show the general scope, extent, and character of the work to be furnished and performed by Contractor(s) (hereinafter called "Drawings") and specifications.
- 1.2.9. Prepare Bid Documents and Specifications based on Final Design Drawings. Incorporate municipal and other appropriate requirements including but not limited to advertisement, instructions to bidders, insurance, safety information, form of contract, bonds, general conditions, supplemental general conditions, and other typical documents furnished by OWNER.
- 1.2.10. Review all Preliminary and Final Design Documents with OWNER at a minimum of 50% complete (Preliminary), and 90% complete (Final) stages of the documents.
- 1.2.11. Advise OWNER of any adjustments to the latest opinion of probable Total Project Costs caused by changes in general scope, extent or character, or design requirements of the Project or Construction Costs. Furnish to OWNER a revised opinion of probable Total Project Costs based on the Drawings and Specifications.
- 1.2.12. Prepare for review and approval by OWNER, its legal counsel, and other advisors' contract agreement forms, general conditions, supplementary conditions, and (where appropriate) bid forms, invitations to bid, and instructions to bidders and assist in the preparation of other related documents.
- 1.2.13. Furnish copies of the above documents, the Drawings and Specifications, and present and review them in person with OWNER or representative.
- 1.2.14. ENGINEER is to prepare an estimate of probable cost for the project at 50% of design and at the final stages of the final design documents.

- 1.2.15. Consult with OWNER regarding required permits. This may include NCDOT Encroachment Agreement, NC DEQ Erosion Control Permit, US Army Corps of Engineers, NC Division of Water Resources, NC Public Water Supply Section Water Permitting, and NCRR.

1.3. Easement Mapping (Hourly, Budgeted).

- 1.3.1. Permanent easements may be required for water lines that extend beyond the existing rights-of-way. Easement Maps will be prepared on 18"x24" drawings depicting permanent and temporary easements including access easements necessary for the project. Legal description will be provided to be reviewed by legal counsel and used in the preparation of required deeds. Easement Maps will be provided as alignment design progresses and in advance of completion of Final Design Drawings and or Bid Documents.
- 1.3.2. Easement Maps will be reviewed with Staff and ENGINEER will assist OWNER with the acquisition of easements on an as-needed basis determined by OWNER's representative. ENGINEER, with OWNER's assistance, will coordinate meetings with property owners and will attend and discuss the Project with property owners.
- 1.3.3. Additional legal assistance may be provided to the City by an outside legal counsel for easement procurement and recording. ENGINEER will coordinate legal counsel with City staff. Outside legal services will be invoiced through ENGINEER based upon a pre-approved OWNER cost agreement.

1.4. Bidding (Hourly, Budgeted).

- 1.4.1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for each separate prime contract for construction, materials, equipment, and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences and receive and process deposits for Bidding Documents.
- 1.4.2. Issue addenda as appropriate to interpret, clarify or expand the Bidding Documents.
- 1.4.3. Consult with and advise OWNER as to the acceptability of subcontractors, suppliers, and other persons and organizations proposed by the prime contractor(s) (hereinafter called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents.
- 1.4.4. Consult with OWNER concerning and determine the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.
- 1.4.5. Attend the bid opening, prepare bid tabulation sheets and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment, and services.

1.5. Construction Administration Phase (Hourly, Budgeted).

- 1.5.1. General Administration of Construction Contract. ENGINEER shall consult with and advise OWNER and act as OWNER's representative as provided in the Standard General Conditions. The extent and limitations of the duties, responsibilities, and authority of ENGINEER as assigned in said Standard General Conditions shall not be modified,

except as ENGINEER may otherwise agree in writing. All of the OWNER's instructions to Contractor(s) will be issued through ENGINEER who will have the authority to act on behalf of OWNER to the extent provided in said Standard General Conditions except as otherwise provided in writing.

- 1.5.2. Visits to Site and Observation of Construction. In connection with observations of the work of Contractor(s) while work is in progress.
 - 1.5.2.1. ENGINEER shall make visits to the site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s) work. In addition, ENGINEER shall provide the services of an Inspector (and assistants as agreed) at the site to assist ENGINEER and to provide necessary observation of such work. Based on information obtained during such visits and on such observations, ENGINEER shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and ENGINEER shall keep OWNER informed of the progress of the work.
 - 1.5.2.2. The Inspector (and any assistants) will be ENGINEER'S agent or employee and under ENGINEER'S supervision.
 - 1.5.2.3. The purpose of ENGINEER's visits to and representation by the Inspector (and assistants, if any) at the site will be to enable ENGINEER to determine if the Contractor's work is in substantial compliance with the Contract Documents. On the other hand, ENGINEER shall not, during such visits or as a result of such observations of Contractor(s)' work have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.
- 1.5.3. Defective Work. During such visits and on the basis of such observations, ENGINEER may disapprove of or reject Contractor(s)' work while it is in progress if ENGINEER believes that such work will not produce a completed Project that conforms to the Contract Documents or that the defective work will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.
- 1.5.4. Interpretations and Clarifications. ENGINEER shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare work directive changes and change orders as required.
- 1.5.5. Shop Drawings. ENGINEER shall review and approve (or take other appropriate action in respect of) Shop Drawings (as that term is defined in the aforesaid Standard General Conditions), samples, and other data which Contractor(s) are required to submit, but only for conformance with the design concept, reviews, and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.
- 1.5.6. Substitutes. ENGINEER shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor(s), but subject to the provision of paragraph 2.2.2.

- 1.5.7. Inspections and Tests. ENGINEER shall have authority, as OWNER's representative, to require special inspection or testing of the work, and shall receive and review all certificates of inspections, testing, and approvals required by laws, rules, regulations, ordinances, codes, orders, or the Contract Documents (but only to determine that their content complies with the requirements of, and the results certified indicate compliance with, the Contract Documents.)
- 1.5.8. Disputes between OWNER and Contractor. ENGINEER shall function as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. ENGINEER shall not be liable for the results of any such interpretations or decisions rendered in good faith.
- 1.5.9. Applications for Payment. Based on ENGINEER's on-site observations as an experienced and qualified design professional, on information provided by the Inspector, and on review of applications for payment and the accompanying data and schedules:
- 1.5.9.1. ENGINEER shall determine the amounts owing to Contractor(s) and recommend in writing payments to Contractor(s) in such amounts. Such recommendations of payment will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated, and that, to the best of the ENGINEER's knowledge, information, and belief, the quality of such work is in accordance with the Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon the Contract Documents and to any other qualifications stated in the recommendation). In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents).
- 1.5.9.2. By recommending any payment ENGINEER will not thereby be deemed to have represented that exhaustive, continuous, or detailed reviews or examinations have been made by ENGINEER to check the quality or quantity of Contractor(s)' work as it is furnished and performed beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. ENGINEER's review of Contractor(s)' work for the purposes of recommending payments will not impose on ENGINEER responsibility to supervise, direct, or control such work or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto or Contractor(s)' compliance with laws, rules, regulations, ordinances, codes or orders applicable to their furnishing and performing the work. It will also not impose responsibility upon ENGINEER to make any examination to ascertain how or for what purposes any Contractor has used the money paid on account of the Contract Price, or to determine that title to any of the work, materials or equipment has passed to OWNER free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between OWNER and CONTRACTOR that might affect the amount that should be paid.
- 1.5.10. Contractor(s)' Completion Documents. ENGINEER shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests, and approvals which are to be assembled by Contractor(s)' in accordance with the Contract Documents (but such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspection, tests and approvals

the results certified indicate compliance with, the Contract Documents(s); and shall transmit them to OWNER with written comments.

- 1.5.11. Inspections. ENGINEER shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor(s)' and may give written notice to OWNER and the Contractor(s)' that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed within this contract.
- 1.5.12. Provide assistance in the closing of any financial or related transaction for the Project.
- 1.5.13. Provide assistance in connection with the refining and adjusting of any equipment or system.
- 1.5.14. Prepare a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by Contractor(s)' to ENGINEER and which ENGINEER considers significant.
- 1.5.15. In company with OWNER, visit the Project to observe any apparent defects in the completed construction, assist OWNER in consultations and discussions with Contractor(s)' concerning correction of such deficiencies, and make recommendations as to replacement or correction of defective work.
- 1.5.16. Limitation of Responsibilities. ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor(s)' or supplier(s)' agents or employees or any other persons (except ENGINEER's own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in paragraphs 1.6.1. through 1.6.11 inclusive, shall be construed to release ENGINEER from liability for failure to properly perform duties and responsibilities assumed by ENGINEER in the Contract Documents.
- 1.5.17. Construction Staking. ENGINEER shall provide construction staking. (Staking may be included in the construction contract as a lump sum item at the time of bidding).

SECTION 2 - ADDITIONAL SERVICES OF ENGINEER

2.1 Services Requiring Authorization in Advance.

If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1. through 2.5., inclusive. These services are not included as part of Basic Services and these will be paid for by OWNER as indicated in Section 5.

Additional Services of Engineer

- 2.1.1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining

approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

- 2.1.2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.
- 2.1.3. Services resulting from significant changes in the general scope, extent, or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, the character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond ENGINEER's control.
- 2.1.4. This project is intended to be partially/wholly funded by the American Rescue Plan (ARP). The entirety of the requirements of compliance with the American Rescue Plan is unknown at this time. ENGINEER is to track ARP compliance tasks and is eligible for reimbursement on an hourly basis for ARP compliance tasks. This is a budgeted task of \$5,000.
- 2.1.5. Providing renderings or models for OWNER's use.
- 2.1.6. Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.
- 2.1.7. Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.
- 2.1.8. Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical, and electrical engineering and customary architectural design incidental thereto). This section includes the services from professionals identifying regulatory wetlands and submitting permits relating thereto.
- 2.1.9. Services during out-of-town travel required of ENGINEER other than visits to the site, OWNER's office, or meetings with state agencies as required by Section 1.
- 2.1.10. Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services called for elsewhere within this Agreement.
- 2.1.11. Preparation of operating, maintenance and staffing manuals.
- 2.1.12. Preparing to serve or serving as a consultant or witness for OWNER in any litigation involving the Project.
- 2.1.13. Additional services in connection with the Project, including services which are to be furnished by OWNER in accordance with Article 3, and services not otherwise provided for in this Agreement.

2.2. Required Additional Services.

When required by the Contract Documents in circumstances beyond ENGINEER's control, ENGINEER shall furnish or obtain from others, as circumstances require during construction and without waiting for specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.3 extended and inclusive. These services are not included as part of Basic Services. ENGINEER shall advise OWNER promptly after starting any such additional services which will be paid for by OWNER as indicated in Section 5.

- 2.2.1. Services in connection with work directive changes and change orders to reflect changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.
- 2.2.2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); and services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.
- 2.2.3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of material, equipment, or energy shortages.
- 2.2.4. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, and (4) default by any Contractor.
- 2.2.5. Services (other than Basic Services described above) in connection with any partial utilization of any part of the Project by OWNER prior to Substantial Completion.
- 2.2.6. Evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.
- 2.2.7. Services assisting OWNER with additional Funding Applications not previously included.

SECTION 3 – OWNER'S RESPONSIBILITIES

OWNER shall do the following in a timely manner so as not to delay the services of ENGINEER.

- 3.1 Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to ENGINEER's services for the Project.
- 3.2 Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.

- 3.3. Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the Project including previous reports and any other data relative to the design or construction of the Project.
- 3.4. Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.
- 3.5. Examine all studies, reports, sketches, drawings, Specifications, proposals, and other documents presented by ENGINEER, obtain the advice of an attorney, insurance counselor, and other consultants as OWNER deem appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.
- 3.6. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services and OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s)', such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the money paid under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s)' are complying with any law, rule, regulation, ordinance, code or other applicable to their furnishing and performing the work.
- 3.7. If OWNER designates a person to represent OWNER at the site who is not ENGINEER or ENGINEER's agent or employee, the duties, responsibilities, and limitations of authority of such other person and the effect thereof on the duties and responsibilities of ENGINEER and the Inspector (and any assistants) will be set forth in an exhibit that is to be identified, attached to and made a part of this Agreement before such services begin.
- 3.8. Furnish to ENGINEER data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.5 through 3.7, inclusive) so that ENGINEER may make the necessary findings to support opinions of probable total project cost.
- 3.9. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress, and other job-related meetings and substantial completion inspections, and final payment inspections.
- 3.10. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services, or any defect or nonconformance in the work of any Contractor.
- 3.11. Furnish, or direct ENGINEER to provide, Additional Services as stipulated in paragraph 2.1. of this Agreement or other services as required.
- 3.12. Bear all costs incident to compliance with the requirements of this Section 3.

SECTION 4 – PERIODS OF SERVICE

- 4.1 The provisions of this Section 4 and the various rates of compensation for ENGINEER's services provided for elsewhere in this Agreement have been agreed upon in anticipation of the orderly and continuous progress of the Project through completion of the Construction Phase. ENGINEER's obligation to render services hereunder will extend for

- a period which may reasonably be required for the design, award of contracts, construction, and initial operation of the Project including extra work and required extensions thereto.
- 4.2. Upon authorization from OWNER, ENGINEER shall proceed with the performance of the service called for in the Final design Phase; and shall deliver Contract Documents and an opinion of probable Total Project Costs for all work of Contractor(s) on the Project.
 - 4.3. ENGINEER's services under the Final Design Phase shall each be considered complete at the earlier of (1) the date when the submissions for that phase have been accepted by OWNER or (2) thirty days after the date when such submissions are delivered to OWNER for final acceptance, plus in each case such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the design of the Project.
 - 4.4. After acceptance by OWNER of the ENGINEER's Drawings, Specifications, and other Final Design Phase documentation including the most recent opinion of probable Total Project Costs, and upon authorization to proceed, ENGINEER shall proceed with the performance of the services called for in the Bidding or Negotiating Phase. This shall only be done with prior written permission and agreement on the cost of these services. This Phase shall terminate and the services to be rendered thereunder shall be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractor(s) (except as may otherwise be required to complete the services as required within the contract).
 - 4.5. The Construction Administration Phase will commence with the execution of the first prime contract to be executed for the work of the Project or any part thereof and will terminate upon written recommendation by ENGINEER of final payment on the last prime contract to be completed. This shall only be done with prior written permission and agreement on the cost of these services. Construction Phase services may be rendered at different times in respect of separate prime contracts if the Project involves more than one prime contract.
 - 4.6. If OWNER has requested significant modifications or changes in the general scope, extent, or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.
 - 4.7. If OWNER fails to give prompt authorization to proceed with any phase of services after completion of the immediately preceding phase, or if the Construction Phase has not commenced within 180 calendar days (plus such additional time as may be required to complete the services called for elsewhere in this contract) after completion of the Final Design Phase, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.
 - 4.8. In the event that the work designed or specified by ENGINEER is to be furnished or performed under more than one prime contract, or if ENGINEER's services are to be separately sequenced with the work of one or more prime contractors (such as in the case of fast-tracking), OWNER and ENGINEER shall, prior to commencement of the Final Design Phase, develop a schedule for performance of ENGINEER's services during the Final Design, Bidding or Negotiating and Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate contracts.

SECTION 5 – PAYMENTS TO THE ENGINEER

- 5.1 Methods of Payment for Services and Expenses of ENGINEER.

- 5.1.1. For Basic Services of ENGINEER under this Agreement, payment will be made on a lump sum basis or on an hourly rate basis in accordance with the Hourly Rate Charge Schedule attached hereto for work rendered in accordance with the appropriately labeled section. Summarized below is the total budget for Engineering Fees estimated under this Agreement:

Summary of Payments			
Section		Fee Type	Fee
1.2	Design Services	Lump Sum	\$ 750,000.00
1.3	Easement Preparation	Budgeted - Hourly	\$ 75,000.00
1.4	Bidding Assistance	Budgeted - Hourly	\$ 20,000.00
1.5	Construction Administration	Budgeted - Hourly	\$ 405,425.00
2.3.4	ARP Compliance	Budgeted - Hourly	\$ 5,000.00
5.1.4	Reimbursable Expenses	Budgeted	\$ 2,500.00
Total Budget for Engineering Fees			\$ 1,257,925.00

- 5.1.2. For Additional Services. OWNER shall pay ENGINEER for Additional Services rendered under Section 2 on an hourly rate basis in accordance with the Hourly Rate Charge Schedule or a mutually agreed price.
- 5.1.3. ENGINEER will be compensated for work performed as defined by sub-consultants at a sub-consultant fee plus ten percent (10%).
- 5.1.4. For Reimbursable Expenses. In addition to payments provided for in paragraph 5.1.1, OWNER shall pay ENGINEER the actual costs (except where specifically provided otherwise) of all Reimbursable Expenses incurred in connection with all Basic and Additional Services.
- 5.1.5. The terms "Salary Costs" and "Reimbursable Expenses" have the meanings assigned to them in paragraph 5.4.
- 5.2. Times of Payments.
- 5.2.1. ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. OWNER shall make prompt monthly payments in response to ENGINEER's monthly statements.
- 5.3. Other Provisions Concerning Payments.
- 5.3.1. In the event of termination by OWNER under paragraph 7.1 upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Basic Services, ENGINEER also will be reimbursed for the charges of independent professional associates and consultants employed by ENGINEER to render Basic Services, and paid for services rendered during that phase on the basis of ENGINEER's Salary Costs times a factor of 2.0 for services rendered during that phase to date of termination by ENGINEER's principals and employees engaged directly on the Project. In the event of any such termination, ENGINEER will be paid for all unpaid Additional Services and unpaid Reimbursable Expenses.
- 5.3.2. Records of ENGINEER's Salary Costs pertinent to ENGINEER's compensation under this Agreement will be kept in accordance with generally accepted accounting practices.

Copies will be made available to OWNER at cost on request prior to final payment for ENGINEER's services.

5.4. Definitions.

- 5.4.1. The Salary Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all ENGINEER's personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits including, but not limited to, social security taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.
- 5.4.2. Reimbursable Expenses mean the actual expenses incurred by ENGINEER or ENGINEER's independent professional associates or consultants directly or indirectly in connection with the Project, such as expenses for obtaining bids or proposals from Contractor(s); reproduction of reports, Drawings, Specifications, Bidding Documents and similar Project-related items in addition to those required under Section 1; and if authorized in advance by OWNER, overtime work requiring higher than regular rates. In addition, if authorized in advance by OWNER, Reimbursable Expenses will also include expenses incurred for computer time and other highly specialized equipment, including an appropriate charge for previously established programs and expenses of photographic production techniques times a factor of 1.10.

SECTION 6 – CONSTRUCTION COST AND OPINIONS OF COST

6.1 Construction Cost.

- 6.1.1. The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by ENGINEER, but it will not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to paragraphs 3.5 through 3.7, inclusive.

6.2. Opinions of Cost.

- 6.2.1. Since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but ENGINEER cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by ENGINEER. If prior to the Bidding or Negotiating Phase OWNER wishes greater assurance as to Total Project or Construction Costs, OWNER shall employ an independent cost estimator as provided in paragraph 3.6.
- 6.2.2. If a Construction Cost limit is established by written agreement between OWNER and ENGINEER and specifically set forth in this Agreement as a condition thereto, the following will apply:

- 6.2.2.1. The acceptance by OWNER at any time during the Basic Services of a revised opinion of probable Total Project or Construction Costs in excess of the then established cost limit will constitute a corresponding revision in the Construction Cost limit to the extent indicated in such revised opinion.

SECTION 7 - OTHER

7.1 Termination

- 7.1.1. The obligation to provide further services under this Agreement may be terminated:

- 7.1.1.1. By either party upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

- 7.1.1.2. Upon seven days' written notice if ENGINEER believes that ENGINEER is being requested by OWNER to furnish or perform services contrary to ENGINEER'S responsibilities as a licensed professional; or

- 7.1.1.3. Upon seven days' written notice if the ENGINEER'S services for the Project are delayed or suspended for more than ninety days for reasons beyond ENGINEER'S control.

- 7.1.1.4. ENGINEER shall have no liability to OWNER on account of such termination.

- 7.1.1.5. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days or receipt thereof; provided that if and to the extent such substantial failure cannot be reasonably cured with such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

- 7.1.1.6. *For convenience*, by OWNER effective upon the receipt of notice by ENGINEER.

- 7.1.2. The terminating party under paragraphs 7.1.1 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow ENGINEER to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

- 7.2. ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom.

- 7.2.1. Workers Compensation Insurance shall be maintained as required by applicable law. General and Automobile Liability limits shall be at least \$1,000,000 each occurrence and \$2,000,000 aggregate.

- 7.2.2. Professional Liability limits shall be at least \$2,000,000 per claim and \$2,000,000 annual aggregate.

- 7.3. ENGINEER shall at all times remain an "Independent Contractor" with respect to the services to be performed be performed under this Agreement. The OWNER shall be

exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance, and Worker's Compensation Insurance since the ENGINEER is an "Independent Contractor".

- 7.4. ENGINEER affirms that it has neither an interest nor shall acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services under this Agreement.
- 7.5. Controlling Law.
 - 7.5.1. This Agreement is to be governed by the law of the STATE OF NORTH CAROLINA without regard to any conflicts of laws provisions thereof.
- 7.6. Successors and Assigns.
 - 7.6.1. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators, and legal representatives of OWNER and ENGINEER (and to the extent permitted elsewhere within this Agreement the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
 - 7.6.2. Neither OWNER nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, money that may become due or money that is due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
 - 7.6.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.
- 7.7. Disputes.
 - 7.7.1. All unresolved claims, counterclaims, disputes and other matters in question between the parties hereto arising out of or relating to this Agreement or the breach thereof will be decided by the appropriate division of the General Court of Justice for Alamance County, North Carolina unless alternative resolution procedures are mutually agreed to between the Parties.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

OWNER:

ENGINEER:

Megan Garner
City Manager

Josh Johnson,
Vice President, Head of Engineering

WITNESS:

WITNESS:

Renee Ward, City Clerk

Troy King,
Corporate Secretary

This agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act:

Julianne Cordon, Finance Director



STAFF REPORT

SUBJECT:	LOCAL HISTORIC LANDMARK DESIGNATION OF NICK'S BUILDING
PREPARED BY:	CAMERON WEST, PLANNER

REQUESTED ACTION:

Designate the Nick's Building (102 S Main Street) as a local historic landmark.

BACKGROUND/SUMMARY:

At the October 12, 2022, Historic Resource Commission Meeting, the Commission received an application for historic landmark designation. The Commission decided to forward a recommendation of approval to City Council for them to designate Nick's Building (102 S Main Street) as a local historic landmark. The application and site's significance are available in the agenda packet for your viewing.

STAFF RECOMMENDATION:

Approval.

SUGGESTED MOTION(S):

I move we designate the Nick's Building, located at 102 S Main Street, as a local historic landmark.



Application for HISTORIC LANDMARK DESIGNATION

P.O. Drawer 357
201 South Main Street
Graham, NC 27253
(336) 570-6705
Fax (336) 570-6703
www.cityofgraham.com

The City Council, only upon a favorable recommendation from the Historic Resources Commission, may designate a structure or site as a local historic landmark. Regulations for designation of historic landmarks can be found in Article IV, Division 10, Historic Resources, of the *Development Ordinance*.

Property

Name: W. J. Nicks Store Building

Street address or other description of the property's location:

102 S. Main St
Graham, NC 27253

Tax Map#: 145872 GPIN: 8884148129

Property Owner: Court Square Development Group LLC

Mailing Address: PO Box 872

City, State, Zip: Graham, NC 27253

Phone # (336) 229-4225

Applicant

Name: Court Square Development Group LLC

☒ Property Owner Other ☐

Mailing Address: PO Box 872

City, State, Zip: Graham, NC 27253

Phone # (336) 516-7036

Email: chucktalley21@hotmail.com

I, the applicant, hereby request that the property described in this application and in the attached report be designated as a historic landmark by the City of Graham, North Carolina.



Signature of Applicant

9/17/20

Date

Significance

Briefly describe the structure or site's significance:

102 S. Main Street
ca. 1851 PIVOTAL Contribution

Two-story brick building, laid up in common bond, built for Hannah and McLean Trading Company ca. 1851. The oversized bricks were reportedly made on site, sun dried and that several bricks have finger impressions that still remain. The building features two-panel doors with simple molded frames and a porch which carries across the entire front (west) elevation supported by cast iron columns with decorative capitals. Originally a three-story building, the top floor was destroyed by Hurricane Hazel in 1954. It is worth noting that the third floor was not rebuilt until the year 2000. Sash is 6/6.

When Hannah and McLean went out of business in 1857 the building was sold to James D. Bason for retail businesses. Then in 1892 the property was again sold to W. J. Nicks. Nicks expanded the building and sealed off the second floor for use as his residence. The third floor was rented out for various meetings, etc. The basement was converted into a dining room for guests during court week and an annex was added to the rear that housed a kitchen on the first floor, an office on the second, and a bedroom on the third. Another two-story addition on the south side of the store was rented to Sing Lee for the town's first Chinese laundry.

Nicks died in 1952, but the business continued to be operated by members of his family until 1964.

By 1914, the store of W. J. Nicks was already a landmark in Graham.

National Register of Historic Places Inventory - Nomination Form March 10 1983

The building entrances were intentionally built elevated above street level so that the livestock that frequented the square would not find their way in. This is one of the few pre-Civil War antebellum commercial buildings remaining in the state.

Durward Stokes Action & Auction

This application **must be accompanied by a report** on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation. The report shall include the suggested minimum standards set forth by the State Historic Preservation Office.

FOR OFFICE USE ONLY

DEVID#

Fee \$

Historic Significance of W.J. Nicks Store Building

102 S. Main Street ca. 1851 Two-story brick building, laid up in common bond, built for Hannah and McLean Trading Company ca. 1851. The oversized bricks were reportedly made on site, sun dried and that several bricks have finger impressions that still remain. The building features two-panel doors with simple molded frames and a porch which carries across the entire front (west) elevation supported by cast iron columns with decorative capitals. Originally a three-story building, the top floor was destroyed by Hurricane Hazel in 1954. It is worth noting that the third floor was not rebuilt until the year 2000. Sash is 6/6.

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Nicks died in 1952, but the business continued to be operated by members of his family until 1964. By 1914, the store of W. J. Nicks was already a landmark in Graham.

National Register of Historic Places Inventory - Nomination Form March 10 1983

The building entrances were intentionally built elevated above street level so that the livestock that frequented the square would not find their way in. This is one of the few pre-Civil War antebellum commercial buildings remaining in the state.

Durward Stokes, Action & Auction

STAFF REPORT

SUBJECT:	ORDINANCE TO REPEAL AND REPLACE SEC. 12-3 INDIRECT SOLICITATION OF ALMS ORDINANCE
PREPARED BY:	AARON HOLLAND, ASSISTANT CITY MANAGER

REQUESTED ACTION:

Repeal and replace Sec. 12-3- Indirect Solicitation of Alms in the Code of Ordinances.

BACKGROUND/SUMMARY:

At the conclusion of the October 11th City Council meeting, staff was directed by Council at the request of Mayor Talley to review our current ordinances pertaining to panhandling within the city. While panhandling is considered a form of speech that's protected by the 1st amendment, activities that sometimes accompany panhandling like impeding traffic, littering, trespassing or communicating threats are not legally protected and do violate city ordinances. The following language addresses regulatory changes in accordance with legal review by repealing Section 12-3 in its entirety and adding a new section under Sec. 12-20- Public Panhandling, Begging, Charitable and Political Solicitation.

FISCAL IMPACT:

N/A

STAFF RECOMMENDATION:

Approval.

SUGGESTED MOTION(S):

N/A. Per G.S. 160A-175(b), no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced. If City Council desires to move forward with the amendment, it will be added to the December City Council meeting for consideration.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAHAM, REPEALING CHAPTER 12, ARTICLE I, SEC. 12-3 AND ADD SEC. 12-20 TO 12-25 TO THE CODE OF ORDINANCES OF THE CITY OF GRAHAM, NORTH CAROLINA

The City Council of the City of Graham, North Carolina, does ORDAIN:

Sec. 1. That the Code of Ordinances, City of Graham, North Carolina, is hereby amended by repealing Section(s) 12-3 and Add Sec. 12-20 to 12-25, which said sections read as follows:

Chapter 12 – OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. – IN GENERAL

Sec. 12-20.- PUBLIC PANHANDLING, BEGGING, CHARITABLE AND POLITICAL SOLICITATION- Purpose

The purpose of this article is to regulate certain behavior to preserve the public order, to protect the residents of Graham, and to insure the safe and uninterrupted passage of both pedestrian and vehicular traffic, without unconstitutionally impinging upon protected speech, expression, or conduct.

Sec. 12-21.- Definitions.

(a) Areas with heightened personal security concerns mean:

- (1) Areas within, or within twenty (20) feet of a public parking garage;
- (2) Areas within twenty (20) feet of a public bus stop or public transit entrance where a reasonable individual would have a reasonable, justified concern for his or her personal security due to congestion and close proximity to others;
- (3) Areas within twenty (20) feet of access to building entrances, public events venues, public accommodations, or commercial businesses where a reasonable individual would have a reasonable, justified concern for his or her personal security due to congestion and close proximity to others;
- (4) Areas within a designated commercial district in which a high volume of pedestrian traffic or narrow sidewalks and streets give a reasonable person a justified, reasonable concern about his or her personal security due to congestion and close proximity to others; or
- (5) Other areas in which congestion could give a reasonable person justified concern about his or her personal security due to congestion and close proximity to others.

(b) Areas with heightened personal privacy concerns means:

- (1) Locations within twenty (20) feet of an automated teller machine or financial institution in which an automated teller machine is located;
- (2) Locations within twenty (20) feet of a sidewalk café during operating hours unless the solicitor's presence is authorized by the proprietor;
- (3) Other locations where a reasonable person would have a reasonable concern about whether congestion and close proximity to others could compromise one's interests in privacy.

(c) Areas with heightened public safety concerns mean:

- (1) Streets and Highways; and
- (2) Traffic medians, where soliciting poses the risk of injury to solicitors and drivers and may endanger vehicular safety.

(d) Panhandling, begging, charitable or political solicitation means: actions that are conducted in the furtherance of the purpose of immediately collecting contributions for the use of one's self or others. As used in this ordinance, the word, "solicit," and its forms include requests for funding arising from begging, panhandling, and charitable or political fundraising initiatives.

(1) *Aggressive begging, panhandling, or solicitation* means:

- (i) Accosting an individual by approaching or speaking to the individual or individuals in so as to cause a reasonable person to fear imminent bodily harm or commission of a criminal act upon his or her person, or upon property in his or her possession;
- (ii) Touching someone without his or her consent;
- (iii) Using obscene or abusive language toward someone while attempting to panhandle or solicit him or her;
- (iv) Forcing oneself upon the company of another by engaging in:
 - Continuing to solicit in close proximity to the individual addressed after the individual has made a negative response, either verbally, or physically by attempting to leave the presence of the solicitor by other negative indication;
 - Blocking the passage of the individual solicited; or
 - Otherwise engaging in conduct that could reasonably be construed as intending to compel or force a person to accede to a solicitation.
- (v) Acting with the intent to intimidate someone into giving money; or
- (vi) Other conduct that a reasonable person being solicited would regard as threatening or intimidating in order to solicit a contribution of donation.

(2) *Passive panhandling, begging, charitable or political solicitation* means: conduct described in the definition of "begging, panhandling and charitable or political solicitation" that is oral and not aggressive as described in subsection (1) above or presented in writing.

Sec. 12-22.- Passive begging, panhandling, charitable and political solicitation permitted except in prohibited areas.

Passive Panhandling, begging, charitable or political solicitation as defined in 12-21(d)(2) shall be treated as speech protected under the First Amendment. It is prohibited only in the following areas:

- (1) Areas with heightened personal security concerns defined and listed in section 12-21(a);
- (2) Areas with heightened privacy concerns defined and listed in section 12-21(b);
- (3) Streets, highways and medians defined in section 12-21(c) as areas with heightened public safety concerns.

Sec. 12-23.- Aggressive panhandling, begging, charitable and political solicitation prohibited.

Aggressive panhandling, begging, charitable or political solicitation as defined in section 12-21 (d)(2) of this article is prohibited within the city.

Sec. 12-24.- Distribution of printed materials

Distribution of printed materials by individuals shall not block pedestrian traffic on sidewalks and shall not take place on public streets.

Sec. 12-25.- Violations of this ordinance.

- (a) Any persons violating any provision imposed by this ordinance shall be guilty of a Class 3 misdemeanor punishable upon conviction by a fine not exceeding \$500.00 as provided by G.S. 14-4 and otherwise, except as provided in G.S. 14-4, shall be further subject to any one, all or a combination of provisions of N.C.G.S. 160A-175.

- (b) Each day's continuing violation shall be a separate and distinct offense.

(See State Law References G.S. 160A-179 and G.S. 20-175)

Secs. 12-26 -12-44.- Reserved.

Sec. 2. That this Ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law and all ordinances in conflict herewith are hereby repealed.

This the ____ day of _____ 2022.

Jennifer Talley, Mayor

ATTEST:

Renee M. Ward, City Clerk

AMENDMENT TO CHAPTER 12

STREETS AND SIDEWALKS

Section I: Section 12-3 entitled Sec. 12-3 Indirect solicitation of alms is hereby repealed in its entirety.

Section II- A new provision now reserved under Article I is to be used by adding an amendment that shall read: Sec. 12-20.- PUBLIC PANHANDLING, BEGGING, CHARITABLE AND POLITICAL SOLICITATION.

Sec. 12-21.- Purpose.

The purpose of this article is to regulate certain behavior to preserve the public order, to protect the residents of Graham, and to insure the safe and uninterrupted passage of both pedestrian and vehicular traffic, without unconstitutionally impinging upon protected speech, expression, or conduct.

Sec. 12-22.- Definitions.

(a) Areas with heightened personal security concerns mean:

- (1) Areas within, or within twenty (20) feet of a public parking garage;
- (2) Areas within twenty (20) feet of a public bus stop or public transit entrance where a reasonable individual would have a reasonable, justified concern for his or her personal security due to congestion and close proximity to others;
- (3) Areas within twenty (20) feet of access to building entrances, public events venues, public accommodations, or commercial businesses where a reasonable individual would have a reasonable, justified concern for his or her personal security due to congestion and close proximity to others;
- (4) Areas within a designated commercial district in which a high volume of pedestrian traffic or narrow sidewalks and streets give a reasonable person a justified, reasonable concern about his or her personal security due to congestion and close proximity to others; or
- (5) Other areas in which congestion could give a reasonable person justified concern about his or her personal security due to congestion and close proximity to others.

(b) Areas with heightened personal privacy concerns means:

- (1) Locations within twenty (20) feet of an automated teller machine or financial institution in which an automated teller machine is located;
- (2) Locations within twenty (20) feet of a sidewalk café during operating hours unless the solicitor's presence is authorized by the proprietor;

- (3) Other locations where a reasonable person would have a reasonable concern about whether congestion and close proximity to others could compromise one's interests in privacy.
- (c) *Areas with heightened public safety concerns mean:*
 - (1) Streets and Highways; and
 - (2) Traffic medians, where soliciting poses the risk of injury to solicitors and drivers and may endanger vehicular safety.
- (d) Panhandling, begging, charitable or political solicitation means: actions that are conducted in the furtherance of the purpose of immediately collecting contributions for the use of one's self or others. As used in this ordinance, the word, "solicit," and its forms include requests for funding arising from begging, panhandling, and charitable or political fundraising initiatives.
 - (1) *Aggressive begging, panhandling, or solicitation means:*
 - (i) Confronting someone in a way that would cause a reasonable person to fear bodily harm;
 - (ii) Accosting an individual by approaching or speaking to the individual or individuals in so as to cause a reasonable person to fear imminent bodily harm or commission of a criminal act upon his or her person, or upon property in his or her possession;
 - (iii) Touching someone without his or her consent;
 - (iv) Using obscene or abusive language toward someone while attempting to panhandle or solicit him or her;
 - (v) Forcing oneself upon the company of another by engaging in:
 - Continuing to solicit in close proximity to the individual addressed after the individual has made a negative response, either verbally, or physically by attempting to leave the presence of the solicitor by other negative indication;
 - Blocking the passage of the individual solicited; or
 - Otherwise engaging in conduct that could reasonably be construed as intending to compel or force a person to accede to a solicitation.
 - (vi) Acting with the intent to intimidate someone into giving money; or
 - (vii) Other conduct that a reasonable person being solicited would regard as threatening or intimidating in order to solicit a contribution of donation.
 - (2) *Passive panhandling, begging, charitable or political solicitation means:* conduct described in the definition of "begging, panhandling and charitable or political solicitation" that is oral and not aggressive as described in subsection (1) above or presented in writing.

Sec. 12-23.- Passive begging, panhandling, charitable and political solicitation permitted except in prohibited areas.

Passive Panhandling, begging, charitable or political solicitation as defined in 12-22(d)(2) shall be treated as speech protected under the First Amendment. It is prohibited only in the following areas:

- (1) Areas with heightened personal security concerns defined and listed in section 12-22(a);
- (2) Areas with heightened privacy concerns defined and listed in section 12-22(b);
- (3) Streets, highways and medians defined in section 12-22(c) as areas with heightened public safety concerns.

Sec. 12-24.- Aggressive panhandling, begging, charitable and political solicitation prohibited.

Aggressive panhandling, begging, charitable or political solicitation as defined in section 12-22 (d)(2) of this article is prohibited within the city.

Sec. 12-25.- Distribution of printed materials

Distribution of printed materials by individuals shall not block pedestrian traffic on sidewalks and shall not take place on public streets.

Sec. 12-26.- Violations of this ordinance.

- (a) Any persons violating any provision imposed by this ordinance shall be guilty of a Class 3 misdemeanor punishable upon conviction by a fine not exceeding \$500.00 as provided by G.S. 14-4 and otherwise, except as provided in G.S. 14-4, shall be further subject to any one, all or a combination of provisions of N.C.G.S. 160A-175.
- (b) Each day's continuing violation shall be a separate and distinct offense.

(See State Law References G.S. 160A-179 and G.S. 20-175)

Secs. 12-27 -12-44.- Reserved.

Section III: That this ordinance amendment shall take effect upon adoption.